By Mr. ROBB (for himself, Mr. WARNER, and Mr. SARBANES):

S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

By Mr. HARKIN (for himself, Mr. KERREY, and Mr. GRASSLEY):

S. 1177. A bill to amend the Food Security Act of 1985 to permit the harvesting of crops on land subject to conservation reserve contracts for recovery of biomass used in energy production; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DASCHLE:

S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, delivery, or other transfer of any type of firearm to a juvenile, with certain exceptions; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. DODD, Mr. DASCHLE, Mrs. MURRAY, Mr. SCHUMER, Mr. LEVIN, and Mr. DORGAN):

S. 1180. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEAHY:

S. 1181. A bill to appropriate funds to carry out the commodity supplemental food program and the emergency food assistance program during fiscal year 2000; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to allow more veterans the honor and choice of being buried in the cemetery; to the Committee on Veterans Affairs.

By Mr. NICKLES:

S. 1183. A bill to direct the Secretary of Energy to convey to the city of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI (for himself and Mr. KYL):

S. 1184. A bill to authorize the Secretary of Agriculture to dispose of land for recreation or other public purposes; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. HATCH, Mr. MCCAIN, Mr. MCCONNELL, Mr. LOTT, Mr. BOND, Mr. ASHCROFT, Mr. COVERDELL, Mr. NICKLES, Mr. BROWNBACK, Mr. GORTON, Mr. GRASSLEY, Mr. SESSIONS, Mr. BURNS, Mr. INHOFE, Mr. HELMS, Mr. ALLARD, Mr. HAGEL, Mr. MACK, Mr. BUNNING, Mr. JEFFORDS, Mr. DEWINE, Mr. CRAIG, Mr. HUTCHINSON, and Mr. ENZI):

S. 1185. A bill to provide small business certain protections from litigation excesses and to limit the product liability of nonmanufacturer product sellers; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BROWNBACK (for himself, Mr. FRIST, Mr. HUTCHINSON, Mr. LAUTENBERG, Mr. MACK, and Mr. LIEBERMAN):

S. Res. 109. A resolution relating to the activities of the National Islamic Front government in Sudan; to the Committee on Foreign Relations..

By Mrs. HUTCHISON (for herself, Mrs. FEINSTEIN, Mr. LOTT, Mr. DASCHLE, Mr. MACK, Mr. DOMENICI, Mr. ABRAHAM, Mr. ASHCROFT, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Mr. BREAUX, Mr. BRYAN, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. DEWINE, Mr. ENZI, Mr. GORTON, Mr. GRAMM, Mr. GRASSLEY, Mr. HELMS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. MURKOWSKI, Mrs. MURRAY, Mr. NICKLES, Mr. REID, Mr. ROBB, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH of Oregon, Ms. SNOWE, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. TORRICELLI, Mr. WARNER, Mr. WYDEN, Mr. BAUCUS, Mr. BROWNBACK, Mr. DURBIN, Mr. ROTH, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. ALLARD, Mr. BIDEN, and Mr. EDWARDS):

S. Res. 110. A resolution designating June 5, 1999, as ''National Race for the Cure Day''; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. BURNS, Mr. SARBANES, Mr. SMITH of Oregon, Mrs. MURRAY, Mr. BOND, Mr. DASCHLE, Mr. DEWINE, Mr. ROBERTS, Mr. SPECTER, Ms. MIKULSKI, Mr. MACK, Mr. THURMOND, Mr. EDWARDS, Mr. VOINOVICH, Mr. TORRICELLI, Mr. CRAIG, Mr. JOHNSON, Mr. GRASSLEY, Ms. LANDRIEU, Ms. SNOWE, Mr. LEVIN, Mr. WARNER, Mr. ROBB, Mr. ENZI, Mr. LAUTENBERG, Mr. CRAPO, Mr. AKAKA, Mr. GORTON, Mr. DODD, Mr. DOMENICI, Mr. BREAUX, Mr. STEVENS, Mr. CLELAND, Mr. HAGEL, Mr. KENNEDY, Mr. ABRAHAM, Mr. DORGAN, Mrs. FEINSTEIN, Mr. KERRY, Mrs. BOXER, Mr. REID, Mr. DURBIN, Mr. CONRAD, Mr. BYRD, Mr. INOUYE, Mr. BAYH, Mr. BINGAMAN, Mr. BRYAN, Mr. LIEBERMAN, Mr. WYDEN, Mr. HOLLINGS, and Mr. HATCH):

S. Res. 111. A resolution designating June 6, 1999, as ''National Child's Day''; considered and agreed to.

By Mr. FEINGOLD:

S. Res. 112. ; considered and agreed to.

By Mr. SCHUMER (for himself, Mr. MOYNIHAN, Mr. BROWNBACK, Mr. MACK, and Mr. LIEBERMAN):

S. Con. Res. 36. A concurrent resolution condemning Palestinian efforts to revive the original Palestine partition plan of November 29, 1947, and condemning the United Nations Commission on Human Rights for its April 27, 1999, resolution endorsing Palestinian self-determination on the basis of the original Palestine partition plan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. DODD, Mr. HOLLINGS, Mr. JEFFORDS, Mr. KENNEDY, Mrs. MURRAY, and Mr. WELLSTONE):

S. 1142. A bill to protect the right of a member of a health maintenance organization to receive continuing care at a facility selected by that member, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SENIORS' ACCESS TO CONTINUING CARE ACT OF 1999

● Ms. MIKULSKI. Mr. President, I rise today to introduce the ''Seniors' Access to Continuing Care Act of 1999'', a bill to protect seniors' access to treatment in the setting of their choice and to ensure that seniors who reside in continuing care communities, and nursing and other facilities have the right to return to that facility after a hospitalization.

As our population ages, more and more elderly will become residents of various long term care facilities. These include independent living, assisted living and nursing facilities, as well as continuing care retirement communities (CCRCs), which provide the entire continuum of care. In Maryland alone, there are over 12,000 residents in 32 CCRCs and 24,000 residents in over 200 licenced nursing facilities.

More and more individuals and couples are choosing to enter continuing care communities because of the community environment they provide. CCRC's provide independent living, assisted living and nursing care, usually on the same campus—the Continuum of Care. Residents find safety, security and peace of mind. They often prepay for the continuum of care. Couples can stay together, and if one spouse needs additional care, it can be provided right there, where the other spouse can remain close by.

Most individuals entering a nursing facility do so because it is medically necessary, because they need a high level of care that they can no longer receive in their homes or in a more independent setting, such as assisted living. But residents are still able to form relationships with other residents and staff and consider the facility their ''home''. I have visited many of these facilities and have heard from both residents and operators. They have told me about a serious and unexpected problem encountered with returning to their facility after a hospitalization.

Hospitalization is traumatic for anyone, but particularly for our vulnerable seniors. We know that having comfortable surroundings and familiar faces can aid dramatically in the recovery process. So, we should do everything we can to make sure that recovery process is not hindered.

Today, more and more seniors are joining managed care plans. This trend is likely to accelerate given the expansion of managed care choices under the 1997 Balanced Budget Act. As more and more decisions are made based on financial considerations, choice often gets lost. Currently, a resident of a continuing care retirement community or a nursing facility who goes to the hospital has no guarantee that he or she will be allowed by the managed care organization (MCO) to return to

the CCRC or nursing facility for post acute follow up care. The MCO can dictate that the resident go to a different facility that is in the MCO network for that follow up care, even if the home facility is qualified and able to provide the needed care.

Let me give you a few examples:

In the fall of 1996, a resident of Applewood Estates in Freehold, New Jersey was admitted to the hospital. Upon discharge, her HMO would not permit her to return to Applewood and sent her to another facility in Jackson. The following year, the same thing happened, but after strong protest, the HMO finally relented and permitted her to return to Applewood. She should not have had to protest, and many seniors are unable to assert themselves.

A Florida couple in their mid-80's were separated by a distance of 20 miles after the wife was discharged from a hospital to an HMO-participating nursing home located on the opposite side of the county. This was a hardship for the husband who had difficulty driving and for the wife who longed to return to her home, a CCRC. The CCRC had room in its skilled nursing facility on campus. Despite pleas from all those involved, the HMO would not allow the wife to recuperate in a familiar setting, close to her husband and friends. She later died at the HMO nursing facility, without the benefit of frequent visits by her husband and friends.

Collington Episcopal Life Care Community, in my home state of Maryland, reports ongoing problems with its frail elderly having to obtain psychiatric services, including medication monitoring, off campus, even though the services are available at Collington—how disruptive to good patient care!

On a brighter note, an Ohio woman's husband was in a nursing facility. When she was hospitalized, and then discharged, she was able to be admitted to the same nursing facility because of the Ohio law that protected that right.

Seniors coming out of the hospital should not be passed around like a baton. Their care should be decided based on what is clinically appropriate, NOT what is financially mandated. Why is that important? What are the consequences?

Residents consider their retirement community or long term care facility as their home. And being away from home for any reason can be very difficult. The trauma of being in unfamiliar surroundings can increase recovery time. The staff of the resident's ''home'' facility often knows best about the person's chronic care and service needs. Being away from ''home'' separates the resident from his or her emotional support system. Refusal to allow a resident to return to his or her home takes away the person's choice. All of this leads to greater recovery time and unnecessary trauma for the patient.

And should a woman's husband have to hitch a ride or catch a cab in order to see his recovering spouse if the facility where they live can provide the care? NO. Retirement communities and other long term care facilities are not just health care facilities. They provide an entire living environment for their residents, in other words, a home. We need to protect the choice of our seniors to return to their ''home'' after a hospitalization. And that is what my bill does.

It protects residents of CCRC's and nursing facilities by: enabling them to return to their facility after a hospitalization; and requiring the resident's insurer or MCO to cover the cost of the care, even if the insurer does not have a contract with the resident's facility.

In order for the resident to return to the facility and have the services covered by the insurer or MCO: 1. The service to be provided must be a service that the insurer covers; 2. The resident must have resided at the facility before hospitalization, have a right to return, and choose to return; 3. The facility must have the capacity to provide the necessary service and meet applicable licensing and certification requirements of the state; 4. The facility must be willing to accept substantially similar payment as a facility under contract with the insurer or MCO.

My bill also requires an insurer or MCO to pay for a service to one of its beneficiaries, without a prior hospital stay, if the service is necessary to prevent a hospitalization of the beneficiary and the service is provided as an additional benefit. Lastly, the bill requires an insurer or MCO to provide coverage to a beneficiary for services provided at a facility in which the beneficiary's spouse already resides, even if the facility is not under contract with the MCO, provided the other requirements are met.

In conclusion, Mr. President, I am committed to providing a safety net for our seniors—this bill is part of that safety net. Seniors deserve quality, affordable health care and they deserve choice. This bill offers those residing in retirement communities and long term care facilities assurance to have their choices respected, to have where they reside recognized as their ''home'', and to be permitted to return to that ''home'' after a hospitalization. It ensures that spouses can be together as long as possible. And it ensures access to care in order to PREVENT a hospitalization. I want to thank my cosponsors Senators DODD, HOLLINGS, JEFFORDS, KENNEDY, MURRAY and WELLSTONE for their support. I urge my colleagues to join me in passing this important measure to protect the rights of seniors and their access to continuing care.●

By Mr. VOINOVICH (for himself, Mr. CHAFEE, Mr. JEFFORDS, Mr. MOYNIHAN, Mr. WARNER, Mrs. HUTCHISON, Mr. REID, Mr. LAUTENBERG, and Mr. LEAHY):

S. 1144. A bill to provide increased flexibility in use of highway funding, and for other purposes; to the Committee on Environment and Public Works.

SURFACE TRANSPORTATION ACT OF 1999

Mr. VOINOVICH. Mr. President, I am pleased today to introduce the Surface Transportation Act of 1999 along with my colleagues, Chairman CHAFEE of the Senate Environment and Public Works Committee, Senators MOYNIHAN, JEFFORDS, REID, WARNER, HUTCHISON, REID, LAUTENBERG and LEAHY. The purpose of this bill is to provide additional flexibility to the States and localities in implementing the Federal transportation program.

Let me briefly describe the three most significant provisions of the bill.

(1) *State infrastructure banks*—the bill authorizes all 50 states to participate in the State Infrastructure Bank (SIB) program. SIBs are revolving funds, capitalized with Federal and State contributions, which are empowered to make loans and provide other forms of non-grant assistance to transportation projects. Before TEA–21 was enacted, transferring Federal highway funding to a State Infrastructure Bank was an option available to all 50 states, with 39 states actively participating. Regrettably, TEA–21 limited the SIB program to just four states. This section would restore the program as it existed prior to TEA–21.

The American Association of State Highway and Transportation Officials (AASHTO), the National Association of State Treasurers, and numerous industry groups, including the American Road & Transportation Builders (ARTBA), strongly support legislation giving all states the opportunity to participate in the SIB program.

The availability of SIB financial assistance has attracted additional investment. According to the U.S. Department of Transportation, SIBs made 21 loans and signed agreements for another 33 loans as of November 1, 1998. Together, these 54 projects are scheduled to receive SIB loan disbursements totaling $408 million to support project investments of more than $2.3 billion—resulting in a leverage ratio of about 5.6 to 1 (total project investment to amount of SIB investment).

(2) *High priority project flexibility*—the bill includes a provision that allows States the flexibility to advance a ''high priority'' project faster than is allowed by TEA–21, which provides the funding for high priority projects spread over the six-year life of TEA–21. This provision would allow States to accelerate the construction of their ''high priority'' projects by borrowing funds from other highway funding categories (e.g., NHS, STP, CMAQ). The flexibility is particularly important for states who are ready to construct some of the high priority projects in the first few years of TEA–21, and without this provision, may need to defer completion until the later years of TEA–21.

(3) *Funding flexibility for Intercity passenger rail*—the bill also gives States the option to use their National Highway System, Congestion Mitigation

and Air Quality funds, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors' Association, has passed a resolution requesting this additional flexibility for states to meet their transportation needs. In testimony before the committee, the U.S. Conference of Mayors and the National Council of State Legislatures also requested this additional flexibility.

In closing, I would like to encourage my colleagues to support this bill, especially for members whose states who are supportive of the State Infrastructure Bank program, have high priority projects that are ready-to-go, or would like the option of using available Federal transportation funding to support intercity passenger rail needs in their state.

I encourage my colleagues to support this important legislation. I ask that a section by section description of the bill be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE SURFACE TRANSPORTATION ACT OF 1999

Summary

The purpose of this bill is to provide additional flexibility to States and localities in implementing the Federal transportation program. This bill does not affect the funding formula agreed to in TEA 21 or modify the overall level of funding for any program.

SECTION BY SECTION

Section 1—Short Title

Section 2—State Infrastructure Banks

This section authorizes all 50 states to participate in the State Infrastructure Bank (SIB) program. SIBs are revolving funds, capitalized with Federal and State contributions, which are empowered to make loans and provide other forms of non-grant assistance to transportation projects. Before the Transportation Equity Act for the 21st Century (TEA 21) was enacted, transferring Federal highway funding to a State Infrastructure Bank was an option available to all 50 states, with 39 states actively participating. Regrettably, TEA 21 took the program backwards and limited the SIB program to just four states. This section would restore the program as it existed prior to TEA 21. The bill extends thru FY 2003 the SIB program, which was authorized in the National Highway System Designation Act.

The American Association of State Highway and Transportation Official (AASHTO), the National Association of State Treasurers, and numerous industry groups, including the American Road & Transportation Builders (ARTBA), strongly support legislation giving all states the opportunity to participate in the SIB program. At their annual meeting in November 1998, AASHTO members adopted a resolution supporting expansion of the SIB program.

Availability of SIB financial assistance has attracted additional investment. According to U.S. DOT, SIBs made 21 loans and signed agreements for another 33 loans as of November 1, 1998. Together, these 54 projects are scheduled to receive SIB loan disbursements totaling $408 million to support project investments of more than $2.3 billion—resulting in a leverage ratio of about 5.6 to 1 (total project investment to amount of SIB investment).

Section 3—High Priority Project Flexibility

Subsection (a) allows States the flexibility to advance a ''high priority'' project faster than is allowed by TEA 21, which provides the funding for high priority projects spread over the six-year life of TEA 21. This provision would allow States to accelerate the construction of their ''high priority'' projects by borrowing funds from other highway funding categories (e.g., NHS, STP, CMAQ). This flexibility is particularly important for states who are ready to construct some of the high priority projects in the first few years of TEA 21, and without this provision may need to defer completion until the later years of TEA 21.

Section 4—Funding Flexibility and High Speed Rail Corridors

Subsection (a) gives States the option to use their National Highway System, Congestion Mitigation and Air Quality funds, and Surface Transportation Program funds to fund capital expenses associated with intercity passenger rail service, including high-speed rail service. The National Governors' Association, has passed a resolution requesting this additional flexibility for states to meet their transportation needs. In testimony before the committee, the U.S. Conference of Mayors and the National Council of State Legislatures also requested this additional flexibility.

Subsection (b) specifies how funds transferred for intercity passenger rail services are to be administered.

Section 5—Historic Bridges

This section eliminates a restriction that caps the amount of Federal-aid highway funds that can be spent on a historic bridge to an amount equal to the cost of demolition. The restriction unnecessarily limits States' flexibility to preserve historic bridges, and limits spending on these historic bridges for the enhancements program for alternative transportation uses. A similar provision was included in the Senate-passed version of the reauthorization, but was not considered by the conferees due to time constraints.

Section 6—Accounting Simplification

This section makes a minor change to the distribution of the Federal-aid obligation limitation that simplifies accounting for states. Currently, a very small amount of the obligation authority directed to the minimum guarantee program is made available for one-year even though the overwhelming majority is made available for several years. This section would make all obligation authority for this program available as multi-year funding. Therefore, this section eliminates the need to account for the States to plan for the small amount of funding separately.

By Mr. LEAHY (for himself, Mr. INOUYE, Mr. SARBANES, Mr. REID, Mr. ROBB, Mr. AKAKA, Mr. SCHUMER, and Mrs. FEINSTEIN):

S. 1145. A bill to provide for the appointment of addition Federal circuit and district judges, and for other purposes; to the Committee on the Judiciary.

THE FEDERAL JUDGESHIP ACT OF 1999

● Mr. LEAHY. Mr. President, today I am introducing the Federal Judgeship Act of 1999. I am pleased that Senators INOUYE, SARBANES, REID, ROBB, AKAKA, and SCHUMER are joining me as original cosponsors of this measure.

Our bill creates 69 new judgeships across the country to address the increased caseloads of the Federal judiciary. Specifically, our legislation would: create 7 additional permanent judgeships and 4 temporary judgeships for the U.S. Courts of Appeal; create 33 additional permanent judgeships and 25 temporary judgeships for the U.S. District Courts; and convert 10 existing temporary district judgeships to permanent positions.

This bill is based on the recommendations of the Judicial Conference of the United States, the nonpartisan policy-making arm of the judicial branch. Federal judges across the nation believe that the continuing heavy caseload of our courts of appeals and district courts merit these additional judges. Indeed, the Chief Justice of the United States in his 1998 year-end report of the U.S. Judiciary declared: ''The number of cases brought to federal courts is one of the most serious problems facing them today.''

Chief Justice Rehnquist is right. The filings of cases in our Federal courts has reached record heights. For instance, criminal case filings in Federal courts rose 15 percent in 1998—nearly tripling the 5.2 percent increase in 1997. The number of criminal cases filed since 1991 increased 25 percent with the number of criminal defendants rising 21 percent. In fact, the filings of criminal cases and defendants reached their highest levels since the Prohibition Amendment was repealed in 1933.

Federal civil caseloads have similarity increased. For the past eight years, total civil case filings have increased 22 percent in our Federal courts. This increase includes jumps of 145 percent in personal injury product liability cases, 112 percent in civil rights filings, 71 percent in social security cases, 49 percent in copyright, patent and trademark filings, and 29 percent prisoner petitions from 1991 to 1998.

But despite these dramatic increases in case filings, Congress has failed to authorize new judgeships since 1990, thus endangering the administration of justice in our nation's Federal courts.

Historically, every six years Congress has reviewed the need for new judgeships. In 1984, Congress passed legislation to address the need for additional judgeships. Six years later, in 1990, Congress again fulfilled its constitutional responsibility and enacted the Federal Judgeship Act of 1990 because of a sharply increasing caseload, particularly for drug-related crimes. But in the last two Congresses, the Republican majority failed to follow this tradition. Two years ago the Judicial Conference requested an additional 55 judgeships to address the growing backlog. My legislation, based on the Judicial Conference's 1997 recommendations, S. 678, the Judicial Judgeship Act of 1997, languished in the Judicial Committee without action during both sessions of the last Congress.

It is now nine years since Congress last seriously reexamined the caseload of the federal judiciary and the need

for more federal judges. Congress ignores the needs of the Federal judiciary at the peril of the American people. Overworked judges and heavy caseloads slow down the judicial process and delay justice. In some cases, justice is in danger of being denied because witnesses and evidence are lost due to long delays in citizens having their day in court.

We have the greatest judicial system in the world, the envy of people around the globe who are struggling for freedom. It is the independence of our third, co-equal branch of government that gives it the ability to act fairly and impartially. It is our judiciary that has for so long protected our fundamental rights and freedoms and served as a necessary check on overreaching by the other two branches, those more susceptible to the gusts of the political winds of the moment.

We are fortunate to have dedicated women and men throughout the Federal Judiciary in this country who do a tremendous job under difficult circumstances. They are examples of the hard-working public servants that make up the federal government. They deserve our respect and our support.

Let us act now to ensure that justice is not delayed or denied for anyone. I urge the Senate to enact the Federal Judgeship Act of 1999 without further delay.●

By Mr. DASCHLE (for himself and Mr. ROCKEFELLER):

S. 1146. A bill to amend title 38, United States Code, to improve access of veterans to emergency medical care in non-Department of Veterans Affairs medical facilities; to the Committee on Veterans' Affairs.

THE VETERANS' ACCESS TO EMERGENCY CARE ACT OF 1999

Mr. DASCHLE. Mr. President, the American people continue to say they want a comprehensive, enforceable Patients' Bill of Rights. Toward that goal, several of my Democratic colleagues and I introduced S. 6, the Patients' Bill of Rights Act of 1999, earlier this year. That legislation, which we first introduced in the 105th Congress, addresses the growing concerns among Americans about the quality of care delivered by health maintenance organizations. I am disappointed that some of my colleagues on the other side of the aisle prevented the Senate from considering managed care reform legislation last year. But I remain hopeful that the Republican leadership will allow an open and honest debate on this important issue this year.

I am hopeful that my colleagues will also take a moment to listen to veterans in this country who are raising legitimate concerns about the medical care they receive from the Department of Veterans Affairs (VA). Many veterans are understandably concerned that the Administration requested approximately $18 billion for VA health care in FY00—almost the same amount it requested last year. They fear that if this flat-lined budget is enacted, the VA would be forced to make significant reductions in personnel, health care services and facilities. I share their concerns and agree that we simply cannot allow that to happen. On the contrary, Congress and the Administration need to work together to provide the funds necessary to improve the health care that veterans receive.

Toward that end, and as we prepare to celebrate Memorial Day, I am reintroducing the Veterans' Access to Emergency Care Act of 1999. I am pleased that Senator ROCKEFELLER, the distinguished Ranking Member of the Senate Veterans' Affairs Committee, is joining me in this effort. This legislation, which was S. 2619 last year, calls for veterans to be reimbursed for emergency care they receive at non-VA facilities.

The problem addressed in the bill stems from the fact that veterans who rely on the VA for health care often do not receive reimbursement for emergency medical care they receive at non-VA facilities. According to the VA, veterans may only be reimbursed by the VA for emergency care at a non-VA facility that was not pre-authorized if all of the following criteria are met:

First, care must have been rendered for a medical emergency of such nature that any delay would have been life-threatening; second, the VA or other federal facilities must not have been feasibly available; and, third, the treatment must have been rendered for a service-connected disability, a condition associated with a service-connected disability, or for any disability of a veteran who has a 100-percent service-connected disability.

Many veterans who receive emergency health care at non-VA facilities are able to meet the first two criteria. Unless they are 100-percent disabled, however, they generally fail to meet the third criterion because they have suffered heart attacks or other medical emergencies that were unrelated to their service-connected disabilities. Considering the enormous costs associated with emergency health care, current law has been financially and emotionally devastating to countless veterans with limited income and no other health insurance. The bottom line is that veterans are forced to pay for emergency care out of their own pockets until they can be stabilized and transferred to VA facilities.

During medical emergencies, veterans often do not have a say about whether they should be taken to a VA or non-VA medical center. Even when they specifically ask to be taken to a VA facility, emergency medical personnel often transport them to a nearby hospital instead because it is the closest facility. In many emergencies, that is the only sound medical decision to make. It is simply unfair to penalize veterans for receiving emergency medical care at non-VA facilities. Veterans were asked to make enormous sacrifices for this country, and we should not turn our backs on them during their time of need.

There should be no misunderstanding. This is a widespread problem that affects countless veterans in South Dakota and throughout the country. I would like to cite just three examples of veterans being denied reimbursement for emergency care at non-VA facilities in western South Dakota.

The first involves Edward Sanders, who is a World War II veteran from Custer, South Dakota. On March 6, 1994, Edward was taken to the hospital in Custer because he was suffering chest pains. He was monitored for several hours before a doctor at the hospital called the VA Medical Center in Hot Springs and indicated that Edward was in need of emergency services. Although Edward asked to be taken to a VA facility, VA officials advised him to seek care elsewhere. He was then transported by ambulance to the Rapid City Regional Hospital where he underwent a cardiac catheterization and coronary artery bypass grafting. Because the emergency did not meet the criteria I mentioned previously, the VA did not reimburse Edward for the care he received at Rapid City Regional. His medical bills totaled more than $50,000.

On May 17, 1997, John Lind suffered a heart attack while he was at work. John is a Vietnam veteran exposed to Agent Orange who served his country for 14 years until he was discharged in 1981. John lives in Rapid City, South Dakota, and he points out that he would have asked to be taken to the VA Medical Center in Fort Meade for care, but he was semi-conscious, and emergency medical personnel transported him to Rapid City Regional. After 4 days in the non-VA facility, John incurred nearly $20,000 in medical bills. Although he filed a claim with the VA for reimbursement, he was turned down because the emergency was not related to his service-connected disability.

Just over one month later, Delmer Paulson, a veteran from Quinn, South Dakota, suffered a heart attack on June 26, 1997. Since he had no other health care insurance, he asked to be taken to the VA Medical Center in Fort Meade. Again, despite his request, the emergency medical personnel transported him to Rapid City Regional. Even though Delmer was there for just over a day before being transferred to Fort Meade, he was charged with almost a $20,000 medical bill. Again, the VA refused to reimburse Delmer for the unauthorized medical care because the emergency did not meet VA criteria.

The Veterans' Access to Emergency Care Act of 1999 would address this serious problem. It would authorize the VA to reimburse veterans enrolled in the VA health care system for the cost of emergency care or services received in non-VA facilities when there is ''a serious threat to the life or health of a veteran.'' Rep. LANE EVANS introduced

similar legislation in the House of Representatives earlier this year. I am encouraged that the Administration's FY00 budget request includes a proposal to allow veterans with service-connected disabilities to be reimbursed by the VA for emergency care they receive at non-VA facilities. This is a step in the right direction, but I think that all veterans enrolled in the VA's health care system—whether or not they have a service-connected disability—should be able to receive emergency care at non-VA facilities. I look forward to continuing to work with Senator ROCKEFELLER and my colleagues on both sides of the aisle to ensure that veterans receive the health care they deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Access to Emergency Care Act of 1999''.

SEC. 2. EMERGENCY HEALTH CARE IN NON-DEPARTMENT OF VETERANS AFFAIRS FACILITIES FOR ENROLLED VETERANS.

(a) DEFINITIONS.—Section 1701 of title 38, United States Code, is amended—

(1) in paragraph (6)—

(A) by striking ''and'' at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting ''; and''; and

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) emergency care, or reimbursement for such care, as described in sections 1703(a)(3) and 1728(a)(2)(E) of this title.''; and

(2) by adding at the end the following new paragraph:

''(10) The term 'emergency medical condition' means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in—

''(A) placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

''(B) serious impairment to bodily functions; or

''(C) serious dysfunction of any bodily organ or part.''.

(b) CONTRACT CARE.—Section 1703(a)(3) of such title is amended by striking ''medical emergencies'' and all that follows through ''health of a veteran'' and inserting ''an emergency medical condition of a veteran who is enrolled under section 1705 of this title or who is''.

(c) REIMBURSEMENT OF EXPENSES FOR EMERGENCY CARE.—Section 1728(a)(2) of such title is amended—

(1) by striking ''or'' before ''(D)''; and

(2) by inserting before the semicolon at the end the following: '', or (E) for any emergency medical condition of a veteran enrolled under section 1705 of this title''.

(d) PAYMENT PRIORITY.—Section 1705 of such title is amended by adding at the end the following new subsection:

''(d) The Secretary shall require in a contract under section 1703(a)(3) of this title, and as a condition of payment under section 1728(a)(2) of this title, that payment by the Secretary for treatment under such contract, or under such section, of a veteran enrolled under this section shall be made only after any payment that may be made with respect to such treatment under part A or part B of the Medicare program and after any payment that may be made with respect to such treatment by a third-party insurance provider.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care or services provided on or after the date of the enactment of this Act.

Mr. ROCKEFELLER. Mr. President, I am pleased to offer my support to the Veterans' Access to Emergency Care Act of 1999. This bill will authorize VA to cover emergency care at non-Department of Veterans Affairs (VA) facilities for those veterans who have enrolled with VA for their health care. I join my colleague, Senator DASCHLE, in cosponsoring this valuable initiative and thank him for his leadership.

Currently, VA is restricted by law from authorizing payment of comprehensive emergency care services in non-VA facilities except to veterans with special eligibility. Most veterans must rely on other insurance or pay out of pocket for emergency services.

I remind my colleagues that VA provides a standard benefits package for all veterans who are enrolled with the VA for their health care. In many ways, this is a very generous package, which includes such things as pharmaceuticals. Enrolled veterans are, however, missing out on one essential part of health care coverage: the standard benefits package does not allow for comprehensive emergency care. So, in effect, we are asking veterans to choose VA health care, but leaving them out in the cold when it comes to emergency care.

Mr. President, we have left too many veterans out in the cold already. When veterans call their VA health care provider in the middle of the night, many reach a telephone recording. This recording likely urges that veterans who have emergencies dial ''911.'' Veterans who call for help are then transported to non-VA facilities. After the emergency is over, veterans are presented with huge bills. These are bills which VA cannot, in most cases, pay and which are, therefore, potentially financially crushing. We cannot abandon these veterans in their time of need.

Let me tell my colleagues about some of the problems that veterans face because of the restriction on emergency care. In January of this year, a low income, non-service-connected, World War II veteran with a history of heart problems, from my State of West Virginia, presented to the nearest non-VA hospital with severe chest pain. In an attempt to get the veteran admitted to the VA medical center, the private physician placed calls to the Clarksburg VA Medical Center, where the veteran was enrolled, on three separate occasions, over the course of three days. The response was always the same—''no beds available.''

Ultimately, a different VA medical center, from outside the veteran's service area, accepted the patient, and two days later transferred him back to the Clarksburg VA Medical Center where he underwent an emergency surgical procedure to resolve the problem. By this time, however, complications had set in, and the veteran was critically ill.

The veteran's wife told me that ''no one should have to endure the pain and suffering'' they had to endure over a five-day period to get the emergency care her husband needed. But in addition to that emotional distress, the veteran now also faces a medical bill of almost $800 at the private hospital, the net amount due after Medicare paid its portion. This is an incredible burden for a veteran and his wife whose sole income are their small Social Security checks.

In another example from my state, in February 1998, a 100 percent service-connected veteran with post-traumatic stress disorder suffered an acute onset of mid-sternal chest pain, and an ambulance was called. The ambulance took him to the nearest hospital, a non-VA facility. Staff at the private facility contacted the Clarksburg VA Medical Center and was told there were no ICU beds available and advised transferring the patient to the Pittsburgh VA Medical Center.

When contacted, Pittsburgh refused the patient because of the length of necessary transport. A call to the Beckley VAMC was also fruitless. The doctor was advised by VA staff that the trip to Beckley would be ''too risky for the three hour ambulance travel.''

The veteran was kept overnight at the private hospital for observation, and then was billed for the care—$900, after Medicare paid its share.

Two more West Virginia cases quickly come to mind involving 100 percent service-connected combat veterans, both of whom had to turn to the private sector in emergency situations.

One veteran had a heart attack and as I recall, his heart stopped twice before the ambulance got him to the closest non-VA hospital. The Huntington VA Medical Center was his health care provider and it was more than an hour away from the veteran's home. This veteran had Medicare, but he was still left with a sizeable medical bill for the emergency services that saved his life.

The other veteran suffered a fall that rendered him unconscious and caused considerable physical damage. He also was taken to the closest non-VA hospital—and was left with a $4,000 bill after Medicare paid its share.

Both contacted me to complain about the unfairness of these bills. As 100 percent service-connected veterans, they rely totally on VA for their health care. I can assure you that neither of them, nor the other two West Virginia veterans I referred to, ever expected to be in the situation in which they all

suddenly found themselves—strapped with large health care bills because they needed emergency treatment in life-threatening situations, when they were miles and miles from the nearest VA medical center.

Coverage of emergency care services for all veterans is supported by the consortium of veterans services organizations that authored the Independent Budget for Fiscal Year 2000—AMVETS, the Disabled American Veterans, the Paralyzed Veterans of America, and the Veterans of Foreign Wars. The concept is also included in the Administration's FY 2000 budget request for VA and the Consumer Bill of Rights, which President Clinton has directed every federal agency engaged in managing or delivering health care to adopt.

To quote from the Consumer Bill of Rights, ''Consumers have the right to access emergency health care services when and where the need arises. Health plans should provide payment when a consumer presents to an emergency department with acute symptoms of sufficient severity—including severe pain—such that a 'prudent layperson' could reasonably expect the absence of medical attention to result in placing their health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.'' This ''prudent layperson'' standard is included in the Veterans' Access to Emergency Care Services Act of 1999 and is intended to protect both the veteran and the VA.

To my colleagues who would argue that this expansion of benefits is something which the VA cannot afford, I would say that denying veterans access to care should not be the way to balance our budget. The Budget Resolution includes an additional $1.7 billion for VA. I call on the appropriators to ensure that this funding makes its way to VA hospitals and clinics across the country.

Truly, approval of the Veterans' Access to Emergency Services Act of 1999 would ensure appropriate access to emergency medical services. Thus, we would be providing our nation's veterans greater continuity of care.

Mr. President, veterans currently have the opportunity to come to VA facilities for their care, but they lack coverage for the one of the most important health care services. I look forward to working with my colleagues on the House and Senate Committees on Veterans' Affairs to make this proposal a reality.

By Mr. GRAHAM (for himself, Mr. JEFFORDS, Mr. KOHL, and Mrs. HUTCHISON):

S. 1147. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax employers who provide child care assistance for dependents of their employees, and for other purposes; to the Committee on Finance.

WORKSITE CHILD CARE DEVELOPMENT ACT OF 1999

Mr. GRAHAM. Mr. President, I am extremely proud to introduce the ''Worksite Child Care Development Act of 1999'' with Senators HUTCHISON, KOHL, and JEFFORDS. This measure will make child care more accessible and affordable to the many millions of Americans who find it not only important, but necessary, to work.

This legislation would grant tax credits to employers who assist their employees with child care expenses by providing:

A one-time 50 percent tax credit not to exceed $100,000 for startup expenses, including expansion and renovations of an employer-sponsored child care facility;

A 50 percent tax credit for employers not to exceed $25,000 annually for the operating costs to maintain a child care facility; and

A 50 percent tax credit yearly not to exceed $50,000 for this employers who provide payments or reimbursements for their employees' child care costs.

Why is this legislation important?

First, the workplace has changed over the years. In 1947, just over one-quarter of all mothers will children between 6 and 17 years of age were in the labor force. By 1996, their labor force participation rate had tripled.

Indeed, the Bureau of Labor Statistics reports that 65 percent of all women with children under 18 years of age are now working and that the growth in the number of working women will continue into the next century.

Second, child care is one of the most pressing social issues of the day. It impacts every family, including the poor, the working poor, middle class families, and stay-at-home parents.

Last June, I hosted a Florida statewide summit on child care where over 500 residents of my State shared with me their concerns and frustration on child care issues.

They told me that quality child care, when available, is often not affordable.

Those who qualify told me there are often long waiting lists for subsidized child care.

They told me that working parents struggle to find ways to cope with the often conflicting time demands of both work and child care.

They told me that their school-age children are at risk because before and after-school supervised care programs are not readily available.

Mr. President, quality child care should be a concern to all Americans. The care and nurturing that children receive early in life has a profound influence on their future—and their future is our future.

In the 21st century, women will comprise more than 60 percent of all new entrants into the labor market. A large proportion of these women are expected to be mothers of children under the age of 6.

The implications for employers are clear. They understand that our Nation's work force is changing rapidly and that those employers who can help their employees with child care will have a competitive advantage. In Florida, for instance, Ryder System's Kids' Corner in Miami has enrolled approximately 100 children in a top-notch day care program.

I commend the many corporations in Florida and across the nation that have taken the important step of providing child care for its employees. Many smaller businesses would like to join them, but do not have the resources to offer child care to employees. Our legislation would help to lower the obstacle to on-site child care.

Mr. President, we believe that this legislation will assist businesses in providing attractive, cost-effective tools for recruiting and retaining employees in a tight labor market.

We believe that encouraging businesses to help employees care for children will make it easier for parents to be more involved in their children's education.

Most of all, Mr. President, we believe that this bill is good for employers and families and will go far in addressing the issue of child care for working families of America. I urge all of my colleagues to support this important piece of legislation.

Mr. President, I ask unanimous consent that letters of support from the Chief Executive Officers of the Ryder Corporation and Bright Horizons Corporation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIGHT HORIZONS,
FAMILY SOLUTIONS,
May 6, 1999.

Hon. ROBERT GRAHAM,
U.S. Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Thank you for allowing our company the opportunity to review and comment on the Worksite Child Care Development Center Act of 1999. We strongly support this bill and want to do all that we can to support you as the primary sponsor.

We applaud your strategy of targeting tax credits for small businesses. Your approach makes perfect sense. Experience has shown that employer-supported child care is not as financially feasible for many small businesses. Since the majority of working parents work for small businesses, their needs have not been adequately addressed. We believe that your bill will have far reaching impact by making it possible for a greater number of working parents to benefit from support offered by their employers.

For your consideration, we respectfully submit comments and suggestions, which we think will strengthen the impact of your bill. I welcome the opportunity to share our experience with you and to discuss these or any other ideas you may have, so please feel free to call me.

Thank you for your willingness to champion the cause for more and better child care for today's working families. Our company shares this important mission with you. We look forward to supporting you in your efforts to pass this historic legislation.

All my best,

ROGER H. BROWN,
President.

RYDER SYSTEM, INC.
Miami, FL, April 29, 1999.

Hon. BOB GRAHAM,
U.S. Senate, Hart Building,
Washington, DC.

DEAR BOB: I am writing to commend you on your introduction of the Worksite Child Care Development Center Act of 1999. The problem of finding high quality, affordable child care is one of the most difficult challenges faced by the modern American workforce. Companies should be encouraged to provide these services on site—as Ryder has done with great success at our Kids' Corner facility—whenever possible. Your bill will provide incentives for other businesses to do just that. We wish you great success with this important legislation.

Sincerely,

TONY.

By Mr. DASCHLE (for himself and Mr. KERREY):

S. 1148. A bill to provide for the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska certain benefits of the Missouri River Basin Pick-Sloan project, and for other purposes; to the Committee on Indian Affairs.

YANKTON SIOUX TRIBE AND SANTEE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND ACT

Mr. DASCHLE. Mr. President, today I am introducing legislation to compensate the Yankton Sioux Tribe of South Dakota and the Santee Sioux Tribe of Nebraska for losses the tribes suffered when the Fort Randall and Gavins Point dams were constructed on the Missouri River over four decades ago.

As a result of the construction of these dams, more than 3,259 acres of land owned by the Yankton Sioux Tribe was flooded or subsequently lost to erosion. Approximately 600 acres of land located near the Santee village and 400 acres on the Niobrara Island of the Santee Sioux Tribe Indian Reservation also was flooded. The flooding of these fertile lands struck a significant blow at the economies of these tribes, and the tribes have never adequately been compensated for that loss. Passage of this legislation will help compensate the tribes for their losses by providing the resources necessary to rebuild their infrastructure and their economy.

To appreciate fully the need for this legislation, it is important to understand the historic events that preceded its development. The Fort Randall and Gavins Point dams were constructed in South Dakota pursuant to the Flood Control Act (58 Stat. 887) of 1944. That legislation authorized implementation of the Missouri River Basin Pick-Sloan Plan for water development and flood control for downstream states.

The Fort Randall dam, which was an integral part of the Pick-Sloan project, initially flooded 2,851 acres of tribal land, forcing the relocation and resettlement of at least 20 families, including the traditional and self-sustaining community of White Swan, one of the four major settlement areas on the reservation. On other reservations, such as Crow Creek, Lower Brule, Cheyenne River, Standing Rock and Fort Berthold, communities affected by the Pick-Sloan dams were relocated to higher ground. In contrast, the White Swan community was completely dissolved and its residents dispersed to whatever areas they could settle and start again.

The bill I am introducing today is the latest in a series of laws that have been enacted in the 1990s to address similar claims by other tribes in South Dakota for losses caused by the Pick-Sloan dams. In 1992, Congress granted the Three Affiliated Tribes of Fort Berthold Reservation and the Standing Rock Sioux Tribe compensation for direct damages, including lost reservation infrastructure, relocation and resettlement expenses, the general rehabilitation of the tribes, and for unfulfilled government commitments regarding replacement facilities. In 1996 Congress enacted legislation compensating the Crow Creek tribe for its losses, while in 1997, legislation was enacted to compensate the Lower Brule tribe. The Yankton Sioux Tribe and Santee Sioux Tribe have not yet received fair compensation for their losses. Their time has come.

Mr. President, the flooding caused by the Pick-Sloan projects touched every aspect of life on the Yankton and Santee Sioux reservations, as large portions of their communities were forced to relocate wherever they could find shelter. Never were these effects fully considered when the federal government was acquiring these lands or designing the Pick-Sloan projects.

The Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act represents an important step in our continuing effort to compensate fairly the tribes of the Missouri River Basin for the sacrifices they made decades ago for the construction of the dams. Passage of this legislation not only will right a historic wrong, but in doing so it will improve the lives of Native Americans living on these reservations.

It has taken decades for us to recognize the unfulfilled federal obligation to compensate the tribes for the effects of the dams. We cannot, of course, remake the lost lands that are now covered with water and return them to the tribes. We can, however, help provide the resources necessary to the tribe to improve the infrastructure on their reservations. This, in turn, will enhance opportunities for economic development that will benefit all members of the tribe. Now that we have reached this stage, the importance of passing this legislation as soon as possible cannot be stated too strongly.

I strongly urge my colleagues to approve this legislation this year. Providing compensation to the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska for past harm inflicted by the federal government is long-overdue and any further delay only compounds that harm. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Yankton Sioux Tribe and Santee Sioux Tribe of Nebraska Development Trust Fund Act''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the ''Flood Control Act of 1944'' (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the ''Pick-Sloan program'')—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir)—

(A) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation; and

(B) has caused the erosion of more than 400 acres of prime land on the Yankton Sioux Reservation adjoining the east bank of the Missouri River;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to $34,323,743 for—

(i) the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(ii) the use value of 408.40 acres of Indian land on the reservation of that Indian tribe that was lost as a result of stream bank erosion that has occurred since 1953; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to $8,132,838 for the loss value of—

(i) 593.10 acres of Indian land located near the Santee village; and

(ii) 414.12 acres on Niobrara Island of the Santee Sioux Tribe Indian Reservation used for the Gavins Point Dam and Reservoir.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) PROGRAM.—The term ''Program'' means the power program of the Pick-Sloan Missouri River Basin program, administered by the Western Area Power Administration.

(3) SANTEE SIOUX TRIBE.—The term ''Santee Sioux Tribe'' means the Santee Sioux Tribe of Nebraska.

SEC. 4. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Yankton Sioux Tribe Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit $34,323,743 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO YANKTON SIOUX TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Yankton Sioux Tribe may enter into an agreement under which that Indian tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Yankton Sioux Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase of land or other capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 5. SANTEE SIOUX TRIBE OF NEBRASKA DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the ''Santee Sioux Tribe of Nebraska Development Trust Fund'' (referred to in this section as the ''Fund''). The Fund shall consist of any amounts deposited in the Fund under this Act.

(b) FUNDING.—Out of any money in the Treasury not otherwise appropriated, the Secretary of the Treasury shall deposit $8,132,838 into the Fund not later than 60 days after the date of enactment of this Act.

(c) INVESTMENTS.—The Secretary of the Treasury shall invest the amounts deposited under subsection (b) in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO SANTEE SIOUX TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning at the end of the first fiscal year in which interest is deposited into the Fund, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 6.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 6.

(D) PLEDGE OF FUTURE PAYMENTS.—

(i) IN GENERAL.—Subject to clause (ii), the Santee Sioux Tribe may enter into an agreement under which that Indian tribe pledges future payments under this paragraph as security for a loan or other financial transaction.

(ii) LIMITATIONS.—The Santee Sioux Tribe—

(I) may enter into an agreement under clause (i) only in connection with the purchase of land or other capital assets; and

(II) may not pledge, for any year under an agreement referred to in clause (i), an amount greater than 40 percent of any payment under this paragraph for that year.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 6. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 4(d) or 5(d) (referred to in this subsection as a ''tribal plan'').

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under subsection (d) to promote—

(1) economic development;

(2) infrastructure development;

(3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or

(4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) IN GENERAL.—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) UPDATING OF TRIBAL PLAN.—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

SEC. 7. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) IN GENERAL.—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this Act shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) EXEMPTIONS FROM TAXATION.—No payment made pursuant to this Act shall be subject to any Federal or State income tax.

(c) POWER RATES.—No payment made pursuant to this Act shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 8. STATUTORY CONSTRUCTION.

Nothing in this Act may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this Act, any treaty right that is in effect on the date of enactment of this Act, any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 4 and the Santee Sioux Tribe of Nebraska Development Trust Fund under section 5.

Mr. KERREY. Mr. President, today, I join with my colleagues to introduce the Yankton Sioux Tribe and the Santee Sioux Tribe of Nebraska Development Trust Fund Act. This legislation will provide compensation to the Yankton and Santee Sioux Tribes for

damages incurred by the development of the Pick-Sloan Missouri River Basin program.

As a result of the construction of Pick-Sloan development projects on tribally-held land adjacent to the Missouri river, Tribes were subjected to forced land takings, involuntary resettlement of families, and the loss of irreplaceable reservation resources.

The Santee Sioux Tribe of Nebraska lost approximately 600 acres of Indian land located near the Santee village and an additional 400 acres on the Nebraska Island of the Santee Sioux Tribe Indian Reservation.

Congress provided compensation to other Native American Tribes for losses caused by the Pick-Sloan projects. However, the Yankton and the Santee Sioux Tribes were not provided opportunities to receive compensation by Congress. Instead, they received settlements for the appraised value of their property through condemnation proceedings in U.S. District Court. But these Tribes did not receive rehabilitation compensation. As a result, the Yankton and Santee Sioux Tribes are entitled to this additional compensation.

This legislation seeks to utilize revenues from the sale of hydropower generated by the Pick-Sloan dams to redress tribal claims for land takings. Congress has endorsed this approach on three separate occasions by enacting legislation which established compensation for several other Tribes adversely impacted by the Pick-Sloan projects.

We propose to establish trust funds for the Yankton and Santee Sioux Tribes from a portion of the revenues of hydropower sales made by the Western Areas Power Administration. More specifically, the Santee Sioux Tribe of Nebraska would received a yearly payment of interest earned on the principal in the trust fund. Our legislation encourages the Santee Sioux Tribe to craft an economic development plan for use of the interest income. This self-governance approach will enable the Santee Sioux Tribe to continue to address improving the quality of life of its tribal members.

This legislation values the importance of redressing tribal claims and self-governance for Nebraska Native American Tribes. It will enable the Santee Sioux Tribe of Nebraska to address past grievances and look forward to investing in its future.

By Mr. LAUTENBERG:

S. 1149. A bill to amend the Safe Drinking Water Act to increase consumer confidence in safe drinking water and source water assessments, and for other purposes; to the Committee on Environment and Public Works.

THE DRINKING WATER RIGHT-TO-KNOW ACT OF 1999

Mr. LAUTENBERG. Mr. President, I am introducing today the Drinking Water Right-To-Know Act of 1999. This legislation is designed to give the public the Right to Know about contaminants in their drinking water that are unregulated, but still may present a threat to their health.

Mr. President, when we passed the Safe Drinking Water Act Amendments of 1996, I praised the bill because I believed it would enhance both the quality of our drinking water and America's confidence in its safety. While the bill did not require that states perform every measure necessary to protect public health, it provided tremendous flexibility and discretion to allow the states to do so.

I was especially hopeful that in my state—the most densely-populated state in the country, a state with an unfortunate legacy of industrial pollution, a state in which newspaper articles describing threats to drinking water seem to appear every few days—that our state agencies would exercise their discretion to be more protective of public health than the minimum required under our 1996 bill.

Mr. President, I am sad to say I have been disappointed. I am sad to say that in my state, and probably in some of my colleagues' as well, the state agency has clung too closely to the bare minimum requirements. A good example of this is in the ''Source Water Assessment Plan,'' proposed by the state of New Jersey last November, as required by the 1996 law.

Under the law, the state is required to perform Source Water Assessments to identify geographic areas that are sources of public drinking water, assess the water systems' susceptibility to contamination, and inform the public of the results. The state's Source Water Assessment Plan describes the program for carrying out the assessments.

An aggressive Source Water Assessment program is essential if a state is going to achieve the goals we had for the 1996 Safe Drinking Water Act. Source Water Assessment is the keystone of the program by which the state will prevent—not just remediate and treat, but prevent—contamination of our drinking water resources. Source Water Assessment also underpins what I believe will be the most far-reaching provisions of the law—those giving the public the Right to Know about potential threats to its drinking water.

Mr. Chairman, there are serious deficiencies in my state's proposed Source Water Assessment Plan. These are deficiencies that I fear may characterize other states' plans as well.

First, under the proposed plan, the state will not identify and evaluate the threat presented by contaminants unless they are among the 80 or so specifically regulated under the Safe Drinking Water Act. Under its proposed plan, the state might ignore even contaminants known to be leaching into drinking water from toxic waste sites. For example, the chemical being studied as a possible cause of childhood cancer at Toms River, New Jersey would not be evaluated under the state's plan. Radium 224, recently discovered in drinking water across my state, might not be evaluated under the state's plan until specifically regulated. With gaps like that in our information, what do I tell the families when they want to know what is in their drinking water?

In addition, under its proposed plan, the state would not consult the public in identifying and evaluating threats to drinking water. This exclusion would almost certainly result in exclusion of the detailed information known to the watershed groups and other community groups which exist across New Jersey and across the country. Also, the state's plan to disclose the assessments are vague and imply that only summary data would be made available to the public. The public must have complete and easy access to assessments for the Right to Know component of the drinking water program to be effective.

The Drinking Water Right-To-Know Act of 1999 will address these deficiencies by amending the Safe Drinking Water Act to improve Source Water Assessments and Consumer Confidence Reports. First, under my bill, when the state performs Source Water Assessments, it will assess the threat posed, not just by regulated contaminants, but by certain unregulated contaminants believed by EPA and U.S. Geological Survey to cause health problems, and contaminants known to be released from local pollution sites, such as Superfund sites, other waste sites, and factories. The bill will also require the state to identify potential contamination of groundwater, even outside the immediate area of the well, perform the assessments with full involvement from the public, and update the assessments every five years.

Second, the Drinking Water Right-To-Know Act of 1999 will make several improvements to the ''Consumer Confidence Reports'' required under the 1996 law to notify the public of water contamination. The bill will require monitoring and public notification, not only of regulated contaminants, but of significant unregulated contaminants identified through the Source Water Assessments, and of sources of contamination. The bill will not require local water purveyors to monitor for every conceivable contaminant—only those identified by the state as posing a threat and having been released by a potentially significant source. In addition, the bill will require notification of new or sharply-increased contamination within 30 days. The bill will also require reporting not just to ''customers,'' but to ''consumers,'' such as apartment-dwellers, who do not receive water company bills. Finally, the bill will require that consumers be provided information on how they can protect themselves from contamination in their drinking water.

Third, the bill will require that testing for the presence of radium 224 take place within 48 hours of sampling the

drinking water, so that public water supplies can have an accurate assessment of this rapidly-decaying radioactive contaminant.

Mr. President, the public has the Right-to-Know about the full range of contaminants they might find in their tap water. The Drinking Water Right-To-Know Act of 1999 will guarantee them that right. I urge my colleagues to co-sponsor this legislation.

Thank you, Mr. President. I ask unanimous consent that the text of the bill be printed into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''Drinking Water Right-to-Know Act of 1999''.

SEC. 2. RADIUM 224 IN DRINKING WATER.

Section 1412(b)(13) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(13)) is amended by adding at the end the following:

''(H) RADIUM 224 IN DRINKING WATER.—A national primary drinking water regulation for radionuclides promulgated under this paragraph shall require testing drinking water for the presence of radium 224 not later than 48 hours after taking a sample of the drinking water.''.

SEC. 3. CONSUMER CONFIDENCE REPORTS BY COMMUNITY WATER SYSTEMS.

Section 1414(c)(4) of the Safe Drinking Water Act (42 U.S.C. 300g–3(c)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking ''The Administrator'' and inserting the following:

''(i) IN GENERAL.—The Administrator'';

(B) in the first sentence—

(i) by striking ''customer of'' and inserting ''consumer of the drinking water provided by''; and

(ii) by inserting before the period at the end the following: ''that includes a report on the level of each contaminant that—

''(I) may be difficult to detect in finished water; and

''(II) may be present at levels that present a public health concern in finished water;'';

(C) in the second sentence, by striking ''Such regulations shall provide'' and inserting the following:

''(ii) REGULATIONS.—The regulations shall—

''(I) provide'';

(D) by striking ''contaminant. The regulations shall also include'' and inserting ''contaminant;

''(II) include'';

(E) by striking ''water. The regulations shall also provide'' and inserting ''water;

''(III) provide'';

(F) by striking the period at the end of the subparagraph and inserting ''; and''; and

(G) by adding at the end the following:

''(IV) direct public water systems to mail consumer confidence reports to residential consumers and mail consumer confidence reports suitable for posting to customers providing water to non-residential consumers, in addition to other methods provided for by the regulations.'';

(2) in subparagraph (B), by inserting after clause (vi) the following:

''(vii) The requirement that each community water system shall report to consumers of drinking water supplied by that community water system—

''(I) any detection of a contaminant described in section 1453(a)(2)(D);

''(II) any known or potential health effects of each contaminant detected in the drinking water, to the maximum level of specificity practicable, including known or potential health effects of each contaminant on children, pregnant women, and other vulnerable subpopulations, as determined by the Administrator;

''(III) known or suspected sources of contaminants detected in the drinking water identified by name and location; and

''(IV) information on any health advisory issued for the contaminant, including actions that consumers can take to protect themselves from contamination in the drinking water supplied by the community water system.'';

(3) in subparagraph (C)—

(A) in clause (i), by striking ''its customers'' and inserting ''consumers of drinking water provided by the system''; and

(B) in clause (iii), by striking ''customers of'' and inserting ''consumers of its drinking water'';

(4) in clause (ii) of the second sentence of subparagraph (D), by striking ''of its customers'' and inserting ''consumer of its drinking water''; and

(5) by adding at the end the following:

''(F) NOTICE OF NEWLY DETECTED CONTAMINATION WITH POTENTIAL TO HAVE ADVERSE HEALTH EFFECTS.—The procedures under subparagraph (D) shall specify that a public water system shall provide written notice to each consumer by mail or direct delivery—

''(i) as soon as practicable, but not later than 30 days after the date of discovery of new contamination or a significant increase in contamination (as compared to the level of contamination reported in any previous consumer confidence report) by a regulated contaminant that is above the maximum contaminant level goal for that contaminant; or

''(ii) as soon as practicable, but not later than 30 days after the date of the discovery of new contamination or the detection of a significant increase in contamination (as compared to the level of contamination reported in any previous consumer confidence report) by an unregulated contaminant.

''(G) DEFINITION OF CONSUMER.—In this paragraph, the term 'consumer' includes—

''(i) a customer of a public water system; and

''(ii) the ultimate consumer of the drinking water.''.

SEC. 4. SOURCE WATER ASSESSMENTS.

(a) IN GENERAL.—Section 1453(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)(2)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(C) assess the susceptibility of each public water system in the delineated areas to any contaminant that—

''(i) is subject to a national primary drinking water regulation promulgated under section 1412;

''(ii) is included on a list of unregulated contaminants that is published under section 1412(b)(1)(B);

''(iii) is the subject of a health advisory that has been published by the Administrator;

''(iv) is monitored under the source water assessment program established under this subsection;

''(v) is known or suspected to be from a pollution source, including—

''(I) a nonpoint source;

''(II) a facility subject to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or

''(III) a factory or other operating facility that generates, treats, stores, disposes of, or releases a material regulated or reported under—

''(aa) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

''(bb) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

''(cc) the Clean Air Act (42 U.S.C. 7401 et seq.); or

''(dd) section 313 of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11023); or

''(vi) is monitored by the United States Geological Survey under the National Water Quality Assessment program;

''(D) identify each contaminant described in subparagraph (C) that the State determines presents a threat to public health;

''(E) for each assessment under subparagraph (C), require monitoring for contaminants described in subparagraph (C) if the State determines that a contaminant may have been released by a potentially significant source;

''(F) identify, with the maximum specificity practicable, known or suspected sources of pollution that may threaten public health;

''(G) apply to wellheads, groundwater recharge areas, watersheds, and other assessment areas determined to be appropriate by the Administrator; and

''(H) be developed, updated, and implemented in cooperation with members of the general public that are served by each source water assessment area included in the program.''.

(b) PUBLIC AVAILABILITY.—Section 1453(a)(7) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)(7)) is amended by inserting ''and all documentation related to the assessments'' after ''assessments''.

(c) PLANS.—Section 1453(a) of the Safe Drinking Water Act (42 U.S.C. 300j–13(a)) is amended by adding at the end the following:

''(8) PLANS.—

''(A) INITIAL PLAN.—Not later than 1 year after the date of enactment of this paragraph, the State shall submit to the Administrator the plan of the State for carrying out this subsection.

''(B) UPDATES.—Not later than 5 years after the date of the initial submission of the plan and every 5 years thereafter, the State shall update, and submit to the Administrator, the plan of the State for carrying out this subsection.''.

By Mr. HATCH (for himself, Mr. BAUCUS, Mrs. FEINSTEIN, Mr. KYL, Mr. ROBB, and Mr. Bingaman):

S. 1150. A bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of semiconductor manufacturing equipment; to the Committee on Finance.

THE SEMICONDUCTOR EQUIPMENT INVESTMENT ACT OF 1999

Mr. HATCH. Mr. President, I rise today to introduce the Semiconductor Investment Act of 1999. I am joined by Senators BAUCUS, FEINSTEIN, KYL, ROBB, and BINGAMIN. This bill is designed to help the American semiconductor industry compete globally by shortening the depreciable life of semiconductor manufacturing equipment from 5 years to 3.

The U.S. semiconductor industry employs more than 275,000 Americans,

sells over $67 billion of products annually, and currently controls 55 percent of the $122 billion world market. Its products form the foundation of practically every electronic device used today. Growth in this industry translates directly into new employment opportunities for American workers and to economic growth for the nation as a whole.

The American semiconductor industry is a success story because it has invested heavily in the most productive, cutting-edge technology available, and currently spends 14% of its revenues on research and development and 19% on capital investment. Unfortunately, Mr. President, our semiconductor industry is threatened.

While the equipment used to manufacture semiconductors has a useful life of only about 3 years, current tax depreciation rules require that cost of the equipment be written off over a full 5 years. The Semiconductor Investment Act would correct this flaw, Mr. President, by allowing equipment used in the manufacture of semiconductors to be depreciated over a more appropriate 3-year period. Given the massive level of investment in the semiconductor industry, accurate depreciation is critical to industry success.

The key reason for this 3-year depreciation period is that the equipment used to make semiconductors grows technologically obsolete more quickly than other manufacturing equipment. Research indicates that semiconductor manufacturing equipment almost completely loses its ability to produce sellable products after less than 3 years. Today's 5-year period simply doesn't reflect reality. A quicker write-off period would help semiconductor manufacturers finance the large investment in equipment they need for the next generation of products.

The National Advisory Committee on Semiconductors reinforced this conclusion. Congress founded the committee in 1988, and it consisted of Presidential appointees from both the public and private sectors. In 1992, the committee recommended a 3-year schedule would increase the industry's annual capital investment rate by a full 11 percent.

By comparison, Japan, Taiwan, and Korea employ much more generous depreciation schedules for similar equipment, and all three nations provide stiff competition for America's semiconductor manufacturers. For example, under Japanese law, a company can depreciate up to 88 percent of its semiconductor equipment cost in the first year, while United States law permits a mere 20-percent depreciation over the same period. When multinational semiconductor firms are deciding where to invest, a depreciation gap this large can be decisive.

This legislation will help ensure that America's semiconductor industry retains its hard-earned preeminence, a preeminence that yields abundant opportunities for high-wage, high-skill employment. Mr. President, my home State of Utah, provides an outstanding example of the industry's job-creating capacity. Thousands of Utahns earn their living in the State's flourishing semiconductor industry. Firms such as Micron Technology, National Semiconductor, Intel, and Varian have reinforced Utah's strong position in high-technology industries. With the fair tax treatment this bill brings, all Utahns can look forward to a more secure and prosperous future.

Mr. President, the Semiconductor Investment Act of 1999 will help level the playing field between U.S. and foreign semiconductor manufacturers, and provides fair tax treatment to an industry that is one of the Nation's greatest success stories of recent years. I hope that my fellow Senators will join me in supporting this legislation. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Semiconductor Equipment Investment Act of 1999''.

SEC. 2. 3-YEAR DEPRECIABLE LIFE FOR SEMICONDUCTOR MANUFACTURING EQUIPMENT.

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any semiconductor manufacturing equipment.''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 168(e)(3) of such Code is amended—

(A) by striking clause (ii),

(B) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively, and

(C) by striking ''clause (vi)(I)'' in the last sentence and inserting ''clause (v)(I)''.

(2) Subparagraph (B) of section 168(g)(3) of such Code is amended by striking the items relating to subparagraph (B)(ii) and subparagraph (B)(iii) and inserting the following:

''(A)(iv) 3
''(B)(ii) ..... 9.5''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to equipment placed in service after the date of the enactment of this Act.

By Mr. THOMPSON (for himself, Mr. LIEBERMAN, Mr. WARNER, and Mr. LEVIN):

S. 1151. A bill to amend the Office of Federal Procurement Policy Act to streamline the application of cost accounting standards; to the Committee on Governmental Affairs.

COST ACCOUNTING STANDARDS AMENDMENTS OF 1999

Mr. THOMPSON Mr. President, I rise today to introduce a bill on behalf of myself as chairman of the Governmental Affairs Committee and Senator LIEBERMAN, the Committee's ranking minority member, and Senators WARNER and LEVIN, the chairman and ranking minority member of the Armed Services Committee. This legislation will benefit the procurement process in all agencies across the Federal government.

In recent years, Congress has enacted two major acquisition reform statutes—the Federal Acquisition Streamlining Act of 1994 (FASA) and the Clinger-Cohen Act of 1996. These statutes changed the trend in government contracting toward simplifying the government's acquisition process and eliminating many government-unique requirements. The goal of these changes in the government's purchasing processes has been to modify or eliminate unnecessary and burdensome legislative mandates, increase the use of commercial items to meet government needs, and give more discretion to contracting agencies in making their procurement decisions.

Since the early 1900's, the Federal government has required certain unique accounting standards or criteria designed to protect it from the risk of overpaying for goods and services by directing the manner or degree to which Federal contractors apportion costs to their contracts with the government. The Cost Accounting Standards (CAS standards) are a set of 19 accounting principles developed and maintained by the Cost Accounting Standards (CAS) Board, a body created by Congress to develop uniform and consistent standards. The CAS standards require government contractors to account for their costs on a consistent basis and prohibit any shifting of overhead or other costs from commercial contracts to government contracts, or from fixed-priced contracts to cost-type contracts.

FASA and the Clinger-Cohen Act took significant steps to exempt commercial items from the applicability of the CAS standards. Nonetheless, executive agencies, particularly the Department of Defense, and others in the public and private sectors continue to identify the CAS standards as a continuing barrier to the integration of commercial items into the government marketplace. Advocates of relaxing the CAS standards argue that they require companies to create unique accounting systems to do business with the government in cost-type contracts. They believe that the added cost of developing the required accounting systems has discouraged some commercial companies from doing business with the government and led others to set up separate assembly lines for government products, substantially increasing costs to the government.

This bill carefully balances the government's need for greater access to commercial items, particularly those of nontraditional suppliers, with the need for a strong set of CAS standards to protect the taxpayers from overpayments to contractors. The bill would

modify the CAS standards to streamline their applicability, while maintaining the applicability of the standards to the vast majority of contract dollars that are currently covered. In particular, the bill would raise the threshold for coverage under the CAS standards from $25 million to $50 million; exempt contractors from coverage if they do not have a contract in excess of $5 million; and exclude coverage based on firm, fixed price contracts awarded on the basis of adequate price competition without the submission of certified cost or pricing data.

The bill also would provide for waivers of the CAS standards by Federal agencies in limited circumstances. This would allow contracting agencies to handle this contract administration function, in limited circumstances, as part of their traditional role in administering contracts. Our intent is that waivers would be available for contracts in excess of $10 million only in ''exceptional circumstances.'' The ''exceptional circumstances'' waiver may be used only when a waiver is necessary to meet the needs of an agency, and i.e., the agency determines that it would not be able to obtain the products or services in the absence of a waiver.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1151

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.SHORT TITLE.

This Act may be cited as the ''Cost Accounting Standards Amendments of 1999''.

SEC. 2. STREAMLINED APPLICABILITY OF COST ACCOUNTING STANDARDS.

(a) APPLICABILITY.—Paragraph (2) of section 26(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D);

(2) by striking subparagraph (B) and inserting the following:

''(B) The cost accounting standards shall not apply to a contractor or subcontractor for a fiscal year (or other one-year period used for cost accounting by the contractor or subcontractor) if the total value of all of the contracts and subcontracts covered by the cost accounting standards that were entered into by the contractor or subcontractor, respectively, in the previous fiscal year (or other one-year cost accounting period) was less than $50,000,000.

''(C) Subparagraph (A) does not apply to the following contracts or subcontracts for the purpose of determining whether the contractor or subcontractor is subject to the cost accounting standards:

''(i) Contracts or subcontracts for the acquisition of commercial items.

''(ii) Contracts or subcontracts where the price negotiated is based on prices set by law or regulation.

''(iii) Firm, fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of certified cost or pricing data.

''(iv) Contracts or subcontracts with a value that is less than $5,000,000.''.

(b) WAIVER.—Such section is further amended by adding at the end the following:

''(5)(A) The head of an executive agency may waive the applicability of cost accounting standards for a contract or subcontract with a value less than $10,000,000 if that official determines in writing that—

''(i) the contractor or subcontractor is primarily engaged in the sale of commercial items; and

''(ii) the contractor or subcontractor would not otherwise be subject to the cost accounting standards.

''(B) The head of an executive agency may also waive the applicability of cost accounting standards for a contract or subcontract under extraordinary circumstances when necessary to meet the needs of the agency. A determination to waive the applicability of cost accounting standards under this subparagraph shall be set forth in writing and shall include a statement of the circumstances justifying the waiver.

''(C) The head of an executive agency may not delegate the authority under subparagraph (A) or (B) to any official in the executive agency below the senior policymaking level in the executive agency.

''(D) The Federal Acquisition Regulation shall include the following:

''(i) Criteria for selecting an official to be delegated authority to grant waivers under subparagraph (A) or (B).

''(ii) The specific circumstances under which such a waiver may be granted.

''(E) The head of each executive agency shall report the waivers granted under subparagraphs (A) and (B) for that agency to the Board on an annual basis.''.

(c) CONSTRUCTION REGARDING CERTAIN NOT-FOR-PROFIT ENTITIES.—The amendments made by this section shall not be construed as modifying or superseding, nor as intended to impair or restrict, the applicability of the cost accounting standards to—

(1) any educational institution or federally funded research and development center that is associated with an educational institution in accordance with Office of Management and Budget Circular A–21, as in effect on January 1, 1999; or

(2) any contract with a nonprofit entity that provides research and development and related products or services to the Department of Defense.

SEC. 3. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 180 days after the date of enactment of this Act.

By Ms. SNOWE:

S. 1152. A bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees; to the Committee on Governmental Affairs.

OSTEOPOROSIS FEDERAL EMPLOYEE HEALTH BENEFITS STANDARDIZATION ACT

● Ms. SNOWE. Mr. President, I rise today to reintroduce legislation that will standardize coverage for bone mass measurement for people at risk for osteoporosis under the Federal Employee Health Benefits Program. This legislation is similar to my bill which was enacted as part of the Balanced Budget Act to standardize coverage of bone mass measurement under Medicare. The bill I reintroduce today guarantees the same uniformity of coverage to Federal employees and retirees as Congress provided to Medicare beneficiaries two years ago.

Osteoporosis is a major public health problem affecting 28 million Americans, who either have the disease or are at risk due to low bone mass; 80 percent of its victims are women. This devastating disease causes 1.5 million fractures annually at a cost of $13.8 billion—$38 million per day—in direct medical expenses. In their lifetime, one in two women and one in eight men over the age of 50 will fracture a bone due to osteoporosis. Amazingly, a woman's risk of a hip fracture is equal to her combined risk of contracting breast, uterine, and ovarian cancer.

Osteoporosis is largely preventable and thousands of fractures could be avoided if low bone mass were detected early and treated. Though we now have drugs that promise to reduce fractures by 50 percent and new drugs have been proven to actually rebuild bone mass, a bone mass measurement is the only way to diagnose osteoporosis and determine one's risk for future fractures. And we have learned that there are some prominent risk facts: age, gender, race, a family history of bone fractures, early menopause, risky health behaviors such as smoking and excessive alcohol consumption, and some medications all have been identified as contributing factors to bone loss. But identification of risk factors alone cannot predict how much bone a person has and how strong bone is—experts estimate that without bone density tests, up to 40 percent of women with low bone mass could be missed.

Unfortunately, coverage of bone density tests under the Federal Employee Health Benefit Program (FEHBP) is inconsistent. Instead of a comprehensive national coverage policy, FEHBP leaves it to each of the nearly 500 participating plans to decide who is eligible to receive a bone mass measurement and what constitutes medical necessity. Many plans have no specific rules to guide reimbursement and cover the tests on a case-by-case basis. Some plans refuse to provide consumers with information indicating when the plan covers the test and when it does not and some plans cover the test only for people who already have osteoporosis.

Mr. President, we owe the people who serve our Government more than that. We know that osteoporosis is highly preventable, but only if it is discovered in time. There is simply no substitute for early detection. My legislation standardizes coverage for bone mass measurement under the FEHBP and I urge my colleagues to support this legislation.●

By Mr. HARKIN (for himself, Mr. DASCHLE, Mr. DORGAN, Mr. BAUCUS, Mr. CONRAD, Mr. WELLSTONE, Mr. JOHNSON, Mr. WYDEN, Mr. REID, Mr. KERRY, Mr. ROCKEFELLER, and Mrs. MURRAY):

S. 1153. A bill to establish the Office of Rural Advocacy in the Federal Communications Commission, and for other

purposes; to the Committee on Commerce, Science, and Transportation.

RURAL TELECOMMUNICATIONS IMPROVEMENT ACT OF 1999

Mr. HARKIN. Mr. President, today I am introducing important legislation to assist rural America, the Rural Telecommunications Improvement Act of 1999. I am pleased to be joined in this effort by our distinguished Democratic leader, Senator DASCHLE, as well as Senators DORGAN, BAUCUS, CONRAD, WELLSTONE, JOHNSON, WYDEN, REID, KERREY, ROCKEFELLER and MURRAY. I would like to thank each of them for joining me in this effort to promote the interests of rural America within the Federal Communications Commission (FCC).

Our legislation will establish an Office of Rural Advocacy within the FCC to promote access to advanced telecommunications in rural areas. The Rural Advocate will be responsible for focusing the Commission's attention on the importance of rural areas to the future of American prosperity, as well as on ensuring that Universal Service provisions mandated by the Communications Act and the Telecommunications Act are being met and implemented.

Our proposal is modeled on the Small Business Administration's Office of Advocacy, which has been very successful in promoting the interests of small business within the U.S. government.

Under our bill, the Office of Rural Advocacy will have 9 chief responsibilities:

To promote access to advanced telecommunications service for populations in the rural United States;

To develop proposals to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas;

To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas;

To measure the costs and other effects of Federal regulations on telecommunication carriers in rural areas;

To determine the effect of Federal tax laws on providers of telecommunications services in rural areas;

To serve as a focal point for the receipt of complaints, criticisms and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas;

To counsel providers of telecommunications services in rural areas;

To represent the views and interests of rural populations and providers of telecommunications services in rural areas; and

To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in providing information about the telecommunications programs and services of the Federal Government which benefit rural areas and telecommunications companies.

Mr. President, such an office within the FCC is needed for one very important reason, no bureau or Commissioner at the FCC has as an institutional role with the responsibility to promote the interests of rural telecommunications. The FCC has a great number of issues to consider due to the ever changing role of communications.

Our legislation will ensure the FCC has the resources necessary to focus the Commission's attention on rural issues and will help establish an agenda at the FCC to address rural America's telecommunications needs, something the Commission has not done in the recent past. For example, the FCC's report on Advanced Telecommunications Services stated ''deployment of advanced telecommunications generally appear, at present, reasonable and timely.'' I can tell you Mr. President, this is not the case in Iowa where, according to the Iowa Utilities Board (IUB), approximately 8% of our exchanges have no access to the Internet. Additionally, access in many rural areas is of low speed and poor quality. This doesn't even include access to broadband, or high-speed Internet access, which is not available in numerous rural areas and small towns in Iowa and across the country.

Other examples of the FCC's lack of focus on rural issues include a failure to understand how rural telephone cooperatives interact with their members, such as preventing rural telephone cooperatives from calling members to check on long distance preference changes, and an FCC definition that establishes a 3000 hertz level of basic voice grade service, when such a low level prevents Internet access on longer loops in rural areas.

In order to effectively influence policy on rural telecommunications, this legislation gives the Rural Advocate the rank of a bureau chief within the FCC. The Rural Advocate will also have the authority to file comments or reports on any matter before the Federal Government affecting rural telecommunications without having to clear the testimony with the OMB or the FCC. Additionally, the Rural Advocate can file reports with the Administration, Congress and the FCC to recommend legislation or changes in policy. Finally, the Rural Advocate will be appointed directly by the President and confirmed by the Senate.

Mr. President, in short, this legislation would allow rural America to enter the fast lane of the Information Superhighway. Again, thank you to my colleagues who have joined me in sponsoring this proposal. I urge all Senators to consider joining us in moving this initiative forward.

I ask unanimous consent that a copy of our proposal be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Telecommunications Improvement Act of 1999''.

SEC. 2. ESTABLISHMENT OF OFFICE OF RURAL ADVOCACY IN THE FEDERAL COMMUNICATIONS COMMISSION.

(a) ESTABLISHMENT.—Title I of the Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended by adding at the end the following:

''SEC. 12. OFFICE OF RURAL ADVOCACY.

''(a) ESTABLISHMENT.—There shall be in the Commission an office to be known as the 'Office of of Rural Advocacy'. The office shall not be a bureau of the Commission.

''(b) HEAD OF OFFICE.—(1) The Office shall be headed by the Rural Advocate of the Federal Communications Commission. The Rural Advocate shall be appointed by the President, by and with the advice and consent of the Senate, from among citizens of the United States.

''(2) The Rural Advocate shall have a status and rank in the Commission commensurate with the status and rank in the Commission of the heads of the bureaus of the Commission.

''(c) RESPONSIBILITIES OF OFFICE.—The responsibilities of the Office are as follows:

''(1) To promote access to advanced telecommunications service for populations in the rural United States.

''(2) To develop proposals for the modification of policies and activities of the departments and agencies of the Federal Government in order to better fulfill the commitment of the Federal Government to universal service and access to advanced telecommunications services in rural areas, and submit such proposals to the departments and agencies.

''(3) To assess the effectiveness of existing Federal programs for providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to improve such programs.

''(4) To measure the costs and other effects of Federal regulations on the capability of telecommunication carriers in rural areas to provide adequate telecommunications services (including advanced telecommunications and information services) in such areas, and make recommendations for legislative and non-legislative actions to modify such regulations so as to minimize the interference of such regulations with that capability.

''(5) To determine the effect of Federal tax laws on providers of telecommunications services in rural areas, and make recommendations for legislative and non-legislative actions to modify Federal tax laws so as to enhance the availability of telecommunications services in rural areas.

''(6) To serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning policies and activities of any department or agency of the Federal Government which affect the receipt of telecommunications services in rural areas.

''(7) To counsel providers of telecommunications services in rural areas on the effective resolution of questions and problems in the relationships between such providers and the Federal Government.

''(8) To represent the views and interests of rural populations and providers of telecommunications services in rural areas before any department or agency of the Federal Government whose policies and activities affect the receipt of telecommunications services in rural areas.

''(9) To enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the telecommunications programs and services of the Federal Government which benefit rural populations and providers of telecommunications services in rural areas.

''(d) STAFF AND POWERS OF OFFICE.—

''(1) STAFF.—

''(A) IN GENERAL.—For purposes of carrying out the responsibilities of the Office under this section, the Rural Advocate may employ and fix the compensation of such personnel for the Office as the Rural Advocate considers appropriate.

''(B) PAY.—

''(i) IN GENERAL.—The employment and compensation of personnel under this paragraph may be made without regard to the provisions of title 5, United States Code, governing appointments in the civil service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification of positions and General Schedule pay rates.

''(ii) MAXIMUM RATE OF PAY.—The rate of pay of personnel employed under this paragraph may not exceed the rate payable for GS–15 of the General Schedule.

''(C) LIMITATION.—The total number of personnel employed under this paragraph may not exceed 14.

''(2) TEMPORARY AND INTERMITTENT SERVICES.—The Rural Advocate may procure temporary and intermittent services to the extent authorized by section 3109 of title 5, United States Code, for purposes of the activities of the Office under this section.

''(3) CONSULTATION WITH EXPERTS.—The Rural Advocate may consult with individuals and entities possessing such expertise as the Rural Advocate considers appropriate for purposes of the activities of the Office under this section.

''(4) HEARING.—The Rural Advocate may hold hearings and sit and act as such times and places as the Rural Advocate considers appropriate for purposes of the activities of the Office under this section.

''(e) ASSISTANCE OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.—

''(1) IN GENERAL.—Any department or agency of the Federal Government may, upon the request of the Rural Advocate, provide the Office with such information or other assistance as the Rural Advocate considers appropriate for purposes of the activities of the Office under this section.

''(2) REIMBURSEMENT.—Assistance may be provided the Office under this subsection on a reimbursable basis.

''(f) REPORTS.—

''(1) ANNUAL REPORT.—The Rural Advocate shall submit to Congress, the President, and the Commission on an annual basis a report on the activities of the Office under this section during the preceding year. The report may include any recommendations for legislative or other action that the Rural Advocate considers appropriate.

''(2) OTHER REPORTS.—The Rural Advocate may submit to Congress, the President, the Commission, or any other department or agency of the Federal Government at any time a report containing comments on a matter within the responsibilities of the Office under this section.

''(3) DIRECT SUBMITTAL.—The Rural Advocate may not be required to submit any report under this subsection to any department or agency of the Federal Government (including the Office of Management and Budget or the Commission) before its submittal under a provision of this subsection.''.

(b) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Rural Advocate, Federal Communications Commission.''.

(c) REPORT ON INITIAL ACTIVITIES.—Not later than 180 days after the date of the appointment of the Rural Advocate of the Federal Communications Commission, the Rural Advocate shall submit to Congress a report on the actions taken by the Rural Advocate to commence carrying out the responsibilities of the Office of Rural Advocacy of the Federal Communications Commission under section 12 of the Communications Act of 1934, as added by subsection (a).

By Mr. VOINOVICH (for himself, Mr. GRAHAM, Mr. BAYH, and Mr. COCHRAN):

S. 1154. A bill to enable States to use Federal funds more effectively on behalf of young children, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

PRENATAL, INFANT AND CHILD DEVELOPMENT ACT OF 1999

Mr. VOINOVICH. Mr. President, I rise today to introduce legislation with several of my Senate colleagues that will address the physical, cognitive and social development of an often-overlooked segment of our nation's population—children from prenatal to three years old.

Our bill, the ''Prenatal, Infant and Child Development Act of 1999,'' will give states the necessary tools to help children cultivate the basic learning patterns and abilities that they will use throughout their lives. We need to do all that we can to create healthy, early childhood development systems across the country, and Senator GRAHAM and I believe it is within the most important years of a child's life—prenatal to three—that the most beneficial influence can be provided by parents, grandparents and caregivers.

Every field of endeavor has peak moments of discovery, when past knowledge converges with new information, new insights and new technologies to produce startling opportunities for advancement. For the healthy development of young children—we are faced with one such moment. Today, thanks to decades of research on brain chemistry and sophisticated new technologies, neuroscientists have the data that tells us the experiences that fill a baby's first days, months, and years have a decisive impact on the architecture of the brain and on the nature and extent of one's adult capabilities. It is the education, the love and the nurturing that our children receive during the years prenatal to three that will help determine who they become 10, 20 and 30 years down the road.

Consequently, a tremendous opportunity exists to assist those individuals and families most at risk in the area of prenatal care through age three. We must work to create systems that support and educate families expecting a baby and those already with young children. We must present a message that is perfectly clear—education does not and cannot begin in kindergarten, or even in a quality preschool.

Mr. President, in 1997, I served as Chairman of the National Governors' Association (NGA). My focus during my tenure as Chairman, was the National Education Goal One, that by the year 2000, all children in America will start school ready to learn.

We developed goals, model indicators, and measures of performance of child and family well-being in order to impact school readiness. The results-oriented goals focused states on the improved conditions of young children and their families. We encouraged state and local governments to look across a variety of delivery systems—health care, child care, family support, and education—to make sure these systems would work together effectively for young children and their families. Based on that effort, between 1997 and 1998, 42 governors made early childhood development a keynote issue as they outlined their state agendas.

Improving education is really about the process of ''lifelong learning,'' which includes efforts based on what doctors and researchers have said about the importance of positive early childhood learning experiences. The traditional primary and secondary education community needs to recognize that investments in early childhood aid their ultimate goal—that is, a classroom that can continue to move the learning process forward. To achieve that goal, a significant tenet of our education agenda must be to ensure that our children enter school ready to learn. Thus, we must support parents and caregivers, to help them understand that day-to-day interaction with young children helps children develop cognitively, socially and emotionally.

To ensure that children have the best possible start in life, supports must exist to help parents and other adults who care for young children. Supports that are critical for young children from prenatal through age three include health care, nutrition programs, childcare, early development services adoption assistance, education programs, and other support services.

There are three ways we can enhance these supports and create new ones. The first is to build on existing programs well underway in the states and the local communities by protecting and increasing federal commitments to worthwhile programs such as WIC (Women, Infants, and Children), CCDBG (Child Care and Development Block Grant), and S–CHIP (State-Children's Health Insurance Program).

The second is to improve coordination among federal agencies in the administration of early childhood programs. As Chairman of the Senate Government Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia. I am taking steps to ensure, for example, that the Department of Education and the Department of Health and Human Services communicate with each other about the early childhood programs for which they are responsible in order to determine which are duplicative and which are most successful.

The Results Act contemplates that agencies should be using their Performance Plans to demonstrate how daily activities, including coordination, contribute to the achievement of strategic goals. GAO evaluated the

Departments of Education and Health and Human Services 5-year Strategic Plans, and FY 1999 and FY 2000 Annual Performance Plans with regard to their coordination efforts. GAO found that both departments' plans are not living up to their full potential. While they address the issue of coordination, the plans provide little detail about their intentions to implement such coordination efforts. I met with both departments and asked that they submit an amended Performance Plan that provided a more detailed compilation of coordination activities and examples. We should emerge from this exercise with a consensus on the most promising programs for our children.

The third way to improve support services is to encourage states to make prenatal to three development a priority. Our bill gives state and local governments additional resources to provide these necessary support services. At the same time, it recognizes that tight spending restraints limit available resources. Consequently, it is a modest, incremental bill that encourages collaboration and integration among existing programs and services and provides additional flexibility to states and local governments if they implement programs to provide coordinated services dedicated to meeting the needs of young children.

Most child advocacy groups rank collaboration on the local level as fundamental and essential to successful programs for healthy childhood development. Under the bill, funds will be provided through the CCDBG program and will reward states that initiate such collaboration in creating state and local councils. It will also encourage states with existing collaboratives to help them expand their focus to social, emotional and cognitive development so that children have the best possible start in life. Funds could be used for a variety of coordinated services, such as child care, child development, pediatric literacy, parent education, home visits, or health services. States will lay out plans that identify ways to further promote the importance of early childhood care and education. Plans should also identify existing supports available for these children and ways that state and local councils can work with already established early development programs.

In addition, the bill focuses on three particular areas to increase public awareness and enhance training opportunities for parents and other adults caring for young children.

The first would provide funding to expand a satellite television network nationally. In order to help parents and caregivers do a better job of creating an environment where kids can learn, the legislation provides funds to support satellite television network services directly connected to child care centers, preschools, colleges, Early Head Start sites and the Internet. These services include high quality training, news, jobs and medical information dedicated to the specific needs of the Head Start staff and others in the early childhood community. In my state of Ohio, we already have networks in place at 1,500 sites.

The bill provides for a partnership between at least one non-profit organization and other public or private entities specializing in broadcast programs for parents and professionals in the early childhood field. The goal is to blend the latest in satellite technology with sound ''prenatal to three'' information and training principles, potentially reaching more than 140,000 caregivers and parents each month.

The second would provide financial incentives for child-care workers to pursue credentialing or accreditation in early childhood education. Although many states do not have formal credentialing standards, there are several national organizations with accreditation curricula. The legislation encourages caregivers to pursue skills-based training (including via satellite or on the Internet) that leads to credentialing or accreditation by the state or national organization. Whatever qualified incentive program is initiated, employers would be required to match each dollar of the Federal contribution.

The third would reauthorize and expand the multimedia parenting resources through video, print and interactive resources in the PBS ''Ready to Learn'' initiative. These resources include:

Expanded Internet offerings that enable parents to reinforce PBS' ''Ready to Learn'' curriculum at home. ''Ready to Learn'' material would be directly accessible from the web for parents to utilize in reinforcing their child's appreciation of public television programs prior to and after program viewing.

Expanded national programming, such as Mr. Rogers and Sesame Street.

Formalized and expanded ''Ready to Learn Teachers'' training and certificate programs using ''The Whole Child'' video courseware, collateral print materials and the development of new video and print courseware.

Expanded caregiver/parent training which would include workshops, distribution of material, and broadcasting of educational video vignettes regarding developmentally appropriate activities for young children.

Deployment of a 24-hour channel of Ready to Learn-based children's programming and parenting training through digital technology.

Our bill would also allow the Temporary Assistance for Needy Families (TANF) program to serve young children in a more effective manner by allowing states the ability to transfer up to 10 percent of a state's TANF grant to the Social Services Block Grant (SSBG). Originally, the 1996 welfare reform bill allowed states this flexibility. However, this was restricted in 1998 to allow states to transfer just 4.25 percent of their TANF grant as an offset to help pay for new highway investments in TEA–21. Social Services Block Grants (Title XX of the Social Security Act) are a flexible source of funds that states may use to support a wide variety of social services for children and families, including child day care, protective services for children, foster care, and home-based services.

The bill would also allow an additional 15 percent transfer of TANF money to the Child Care and Development Block Grant (CCDBG) for expenditures under a state early childhood collaboration program. Currently, states are permitted to transfer up to 30 percent of TANF to a combination of the CCDBG and SSBG. The Welfare Reform Act restructured federal childcare programs, repealed three welfare-related childcare programs and amended the Child Care Development Block Grant (CCDBG). Under current law, states receive a combination of mandatory and discretionary grants, part of which is subject to a state match. These funds would allow states to create or expand local early childhood development coordination councils (10 percent of the transfer authority), or to enhance child care quality in existing programs (5 percent of the transfer authority).

Using these new resources, states can implement coordinated programs at the local level, such as ''one-stop shopping'' for parents with young children. Under this particular program, parents could have a well-baby care visit, meet with a counselor to discuss questions and concerns about the baby's development or receive referrals for help in enrollment in child-care.

Further, the legislation would alter the high performance bonus find within TANF to include criteria related to child welfare. The current criteria are based upon the recommendations of the National Governors' Association (NGA) high performance bonus fund work group. The bonus fund currently provides $200 million annually to states for meeting certain work-related performance targets, such as improvement of long-term self-sufficiency rates by current and former TANF recipients. The performance targets should be expanded to include family- and child-related criteria, such as increases in immunization rates, literacy and preschool participation.

Finally, our bill encourages States to use their Maternal and Child Health Services Block Grant to target activities that address the needs of children from prenatal to three. The Maternal and Child Health Services Block Grant funds a broad range of health services to mothers and children, particularly those with low income or limited access to health services. Its goals are to reduce infant mortality, prevent disease and handicapping conditions among children and increase the availability of prenatal, delivery and postpartum care to mothers.

States are required to use 30 percent of their block grant for preventive and primary care services for children, 30 percent for services to children with special health care needs, and 40 percent at the states' discretion for either of these groups or for other appropriate maternal and child health activities.

Using this existing funding, this legislation encourages states to design programs to address the social and emotional development needs of children under the age of five. It encourages states to provide coordinated early development services, parent education, and strategies to meet the needs of state and local populations. It does not mandate any specific model, nor does it require that states set-aside a specific amount of money from this block grant. Rather, it is intended to give states flexibility in finding money to devote more resources to existing or new healthy early childhood development systems.

Mr. President, the pace at which children grow and learn during the first three years of life makes that period the most critical in their overall development. Children who lack proper nutrition, health care and nurturing during their early years tend to also lack adequate social, motor and language skills needed to perform well in school.

I believe that all children, parents, and caregivers should have access to coordinated information and support services appropriate for healthy early childhood development in the first three years of life. The changing structure of the family requires that states streamline and coordinate healthy early childhood development systems of care to meet the needs of parents and children in the 21st century.

The Federal Government's role in the development of these systems of care is minimal; it must give states the flexibility to implement programs that respond to local needs and conditions. Although it's just a modest step, that's exactly what our bill does.

Our children are our most precious natural resource. They are our hope and they are our future. Therefore, I encourage my colleagues to co-sponsor our legislation, and I urge the Senate during the 106th Congress to make prenatal to three a priority for the sake of our children.

Thank you, Mr. President, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Prenatal, Infant, and Child Development Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Babies are born with all of the 100,000,000,000 brain cells, or neurons, that the babies will need as adults.

(2) By age 3, children have nearly all of the necessary connections, or synapses, between brain cells that cause the brain to function properly.

(3) The pace at which children grow and learn during the first years of life makes that period the most critical in their overall development.

(4) Children who lack proper nutrition, health care, and nurturing during their first years tend to also lack adequate social, motor, and language skills needed to perform well in school.

(5) All young children, and parents and caregivers of these children, should have access to information and support services appropriate for promoting healthy early childhood development in the first years of life, including health care, early intervention services, child care, parenting education, and other child development services.

(6) The changing structure of the family requires that States streamline and coordinate healthy early childhood development systems of care to meet the needs of parents and children in the 21st century.

(7) The Federal Government's role in the development of these systems of care should be minimal. The Federal Government must give States the flexibility to implement systems involving programs that respond to local needs and conditions.

TITLE I—FUNDS PROVIDED UNDER THE TEMPORARY ASSISTANCE TO NEEDY FAMILIES PROGRAM

SEC. 101. AUTHORITY TO TRANSFER FUNDS FOR OTHER PURPOSES.

(a) TRANSFER OF FUNDS FOR BLOCK GRANTS FOR SOCIAL SERVICES.—

(1) ELIMINATION OF REDUCTION IN AMOUNT TRANSFERABLE FOR FISCAL YEAR 2001 AND THEREAFTER.—Section 404(d)(2) of the Social Security Act (42 U.S.C. 604(d)(2)) is amended to read as follows:

''(2) LIMITATION ON AMOUNT TRANSFERABLE TO TITLE XX PROGRAMS.—A State may use not more than 10 percent of the amount of any grant made to the State under section 403(a) for a fiscal year to carry out State programs pursuant to title XX.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on October 1, 1999.

(b) TRANSFER OF FUNDS FOR EARLY CHILDHOOD COLLABORATIVE EFFORTS UNDER THE CCDBG.—

(1) IN GENERAL.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)) is amended—

(A) in paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2), the following:

''(3) ADDITIONAL AMOUNTS TRANSFERABLE TO EARLY CHILDHOOD COLLABORATIVE COUNCILS.—The percentage described in paragraph (1) may be increased by up to 10 percentage points if the additional funds resulting from that increase are provided to local early childhood development coordinating councils described in section 659H of the Child Care and Development Block Grant Act of 1990 to carry out activities described in section 659J of that Act.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 1999.

(c) TRANSFER OF FUNDS TO ENHANCE CHILD CARE QUALITY UNDER THE CCDBG.—

(1) IN GENERAL.—Section 404(d) of the Social Security Act (42 U.S.C. 604(d)), as amended by subsection (b), is amended—

(A) in paragraph (1), by striking ''and (3)'' and inserting ''(3), and (4)'';

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3), the following:

''(4) ADDITIONAL AMOUNTS TRANSFERABLE FOR THE ENHANCEMENT OF CHILD CARE QUALITY.—The percentage described in paragraph (1) (determined without regard to any increase in that percentage as a result of the application of paragraph (3)) may be increased by up to 5 percentage points if the additional funds resulting from that increase are used to enhance child care quality under a State program pursuant to the Child Care and Development Block Grant Act of 1990.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 1999.

SEC. 102. BONUS TO REWARD HIGH PERFORMANCE STATES.

(a) ADDITIONAL MEASURES OF STATE PERFORMANCE.—Section 403(a)(4)(C) of the Social Security Act (42 U.S.C. 603(a)(4)(C)) is amended—

(1) by striking ''Not later'' and inserting the following:

''(i) IN GENERAL.—Not later'';

(2) by inserting ''The formula shall provide for the awarding of grants under this paragraph based on core national and State-selected measures in accordance with clauses (ii) and (iii).'' after the period; and

(3) by adding at the end the following:

''(ii) CORE NATIONAL MEASURES.—The majority of grants awarded under this paragraph shall be based on employment-related national measures using data that are consistently available in all States.

''(iii) STATE-SELECTED MEASURES.—Not less than $20,000,000 of the amount appropriated for a fiscal year under subparagraph (F) shall be used to award grants to States under this paragraph for that fiscal year based on optional, State-selected measures that are related to the status of families and children. States may choose to compete from among such measures according to the policy priorities of the State and the ability of the State to provide data. Such State-selected measures may include—

''(I) successful diversion of applicants from a need for cash assistance under the State program under this title;

''(II) school attendance records of children in families receiving assistance under the State program under this title;

''(III) the degree of participation in the State in the head start program established under the Head Start Act (42 U.S.C. 9831 et seq.) or public preschool programs;

''(IV) improvement of child and adult literacy rates;

''(V) improvement of long-term self-sufficiency rates by current and former recipients of assistance under the State program funded under this title;

''(VI) child support collection rates under the child support and paternity establishment program established under part D;

''(VII) increases in household income of current and former recipients of assistance under the State program funded under this title; and

''(VIII) improvement of child immunization rates.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to each of fiscal years 2000 through 2003.

TITLE II—EXPANSION OF THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SEC. 201. AUTHORITY TO PROVIDE STATE PROGRAMS FOR THE DEVELOPMENT OF CHILDREN UNDER AGE 5.

(a) IN GENERAL.—Section 501(a)(1) of the Social Security Act (42 U.S.C. 701(a)(1)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively; and

(2) by inserting after subparagraph (A), the following:

''(B) to design programs to address the physical, cognitive, and social developmental needs of infants and children under age 5 by providing early child development services, parent education, and other tailored strategies to meet the needs of State and local populations;''.

(b) CONFORMING AMENDMENTS.—Paragraphs (1)(C) and (3)(B) of section 505(a) of the Social Security Act (42 U.S.C. 705(a)) are each amended by striking ''501(a)(1)(D)'' and inserting ''501(a)(1)(E)''.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 1999.

TITLE III—SATELLITE TRAINING

SEC. 301. SHORT TITLE.

This title may be cited as the ''Digital Education Act of 1999''.

SEC. 302. REVISION OF PART C OF TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

Part C of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6921 et seq.) is amended to read as follows:

''PART C—READY-TO-LEARN DIGITAL TELEVISION

''SEC. 3301. FINDINGS.

''Congress makes the following findings:

''(1) In 1994, Congress and the Department collaborated to make a long-term, meaningful and public investment in the principle that high-quality preschool television programming will help children be ready to learn by the time the children entered first grade.

''(2) The Ready to Learn Television Program through the Public Broadcasting Service (PBS) and local public television stations has proven to be an extremely cost-effective national response to improving early childhood development and helping parents, caregivers, and professional child care providers learn how to use television as a means to help children learn, develop, and play creatively.

''(3) Independent research shows that parents who participate in Ready to Learn workshops are more critical consumers of television and their children are more active viewers. A University of Alabama study showed that parents who had attended a Ready to Learn workshop read more books and stories to their children and read more minutes each time than nonattendees. The parents did more hands-on activities related to reading with their children. The parents engaged in more word activities and for more minutes each time. The parents read less for entertainment and more for education. The parents took their children to libraries and bookstores more than nonattendees. For parents, participating in a Ready to Learn workshop increases their awareness of and interest in educational dimensions of television programming and is instrumental in having their children gain exposure to more educational programming. Moreover, 6 months after participating in Ready to Learn workshops, parents who attended generally had set rules for television viewing by their children. These rules related to the amount of time the children were allowed to watch television daily, the hours the children were allowed to watch television, and the tasks or chores the children must have accomplished before the children were allowed to watch television.

''(4) The Ready to Learn (RTL) Television Program is supporting and creating commercial-free broadcast programs for young children that are of the highest possible educational quality. Program funding has also been used to create hundreds of valuable interstitial program elements that appear between national and local public television programs to provide developmentally appropriate messages to children and caregiving advice to parents.

''(5) Through the Nation's 350 local public television stations, these programs and programming elements reach tens of millions of children, their parents, and caregivers without regard to their economic circumstances, location, or access to cable. In this way, public television is a partner with Federal policy to make television an instrument, not an enemy, of preschool children's education and early development.

''(6) The Ready to Learn Television Program extends beyond the television screen. Funds from the Ready to Learn Television Program have funded thousands of local workshops organized and run by local public television stations, almost always in association with local child care training agencies or early childhood development professionals, to help child care professionals and parents learn more about how to use television effectively as a developmental tool. These workshops have trained more than 320,000 parents and professionals who, in turn, serve and support over 4,000,000 children across the Nation.

''(7)(A) The Ready to Learn Television Program has published and distributed millions of copies of a quarterly magazine entitled 'PBS Families' that contains—

''(i) developmentally appropriate games and activities based on Ready to Learn Television programming;

''(ii) parenting advice;

''(iii) news about regional and national activities related to early childhood development; and

''(iv) information about upcoming Ready to Learn Television activities and programs.

''(B) The magazine described in subparagraph (A) is published 4 times a year and distributed free of charge by local public television stations in English and in Spanish (PBS para la familia).

''(8) Because reading and literacy are central to the ready to learn principle Ready to Learn Television stations also have received and distributed millions of free age-appropriate books in their communities as part of the Ready to Learn Television Program. Each station receives a minimum of 200 books each month for free local distribution. Some stations are now distributing more than 1,000 books per month. Nationwide, more than 300,000 books are distributed each year in low-income and disadvantaged neighborhoods free of charge.

''(9) In 1998, the Public Broadcasting Service, in association with local colleges and local public television stations, as well as the Annenberg Corporation for Public Broadcasting Project housed at the Corporation for Public Broadcasting, began a pilot program to test the formal awarding of a Certificate in Early Childhood Development through distance learning. The pilot is based on the local distribution of a 13-part video courseware series developed by Annenberg Corporation for Public Broadcasting and WTVS Detroit entitled 'The Whole Child'. Louisiana Public Broadcasting, Kentucky Educational Television, Maine Public Broadcasting, and WLJT Martin, Tennessee, working with local and State regulatory agencies in the child care field, have participated in the pilot program with a high level of success. The certificate program is ready for nationwide application using the Public Broadcasting Service's Adult Learning Service.

''(10) Demand for Ready To Learn Television Program outreach and training has increased dramatically, with the base of participating Public Broadcasting Service member stations growing from a pilot of 10 stations to nearly 130 stations in 5 years.

''(11) Federal policy played a crucial role in the evolution of analog television by funding the television program entitled 'Sesame Street' in the 1960's. Federal policy should continue to play an equally crucial role for children in the digital television age.

''SEC. 3302. READY-TO-LEARN.

''(a) IN GENERAL.—The Secretary is authorized to award grants to or enter into contracts or cooperative agreements with eligible entities described in section 3303(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the National Education Goals.

''(b) AVAILABILITY.—In making such grants, contracts, or cooperative agreements, the Secretary shall ensure that eligible entities make programming widely available, with support materials as appropriate, to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

''SEC. 3303. EDUCATIONAL PROGRAMMING.

''(a) AWARDS.—The Secretary shall award grants, contracts, or cooperative agreements under section 3302 to eligible entities to—

''(1) facilitate the development directly, or through contracts with producers of children and family educational television programming, of—

''(A) educational programming for preschool and elementary school children; and

''(B) accompanying support materials and services that promote the effective use of such programming;

''(2) facilitate the development of programming and digital content especially designed for nationwide distribution over public television stations' digital broadcasting channels and the Internet, containing Ready to Learn-based children's programming and resources for parents and caregivers; and

''(3) enable eligible entities to contract with entities (such as public telecommunications entities and those funded under the Star Schools Act) so that programs developed under this section are disseminated and distributed—

''(A) to the widest possible audience appropriate to be served by the programming; and

''(B) by the most appropriate distribution technologies.

''(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under subsection (a), an entity shall be—

''(1) a public telecommunications entity that is able to demonstrate a capacity for the development and national distribution of educational and instructional television programming of high quality for preschool and elementary school children and their parents and caregivers; and

''(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children and their parents and caregivers.

''(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

''SEC. 3304. DUTIES OF SECRETARY.

''The Secretary is authorized—

''(1) to award grants, contracts, or cooperative agreements to eligible entities described in section 3303(b), local public television stations, or such public television stations that are part of a consortium with 1 or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

''(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

''(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

''(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness; and

''(D) developing and disseminating training materials, including—

''(i) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

''(ii) support materials to promote the effective use of materials developed under subparagraph (B) among parents, Head Start providers, in-home and center-based day care providers, early childhood development personnel, elementary school teachers, public libraries, and after- school program personnel caring for preschool and elementary school children;

''(2) to establish within the Department a clearinghouse to compile and provide information, referrals, and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

''(3) to coordinate activities assisted under this part with the Secretary of Health and Human Services in order to—

''(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

''(B) provide information to recipients of funds under Federal programs that have major training components for early childhood development, including programs under the Head Start Act and Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990, regarding the availability and utilization of materials developed under paragraph (1)(D) to enhance parent and child care provider skills in early childhood development and education.

''SEC. 3305. APPLICATIONS.

''Each entity desiring a grant, contract, or cooperative agreement under section 3302 or 3304 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''SEC. 3306. REPORTS AND EVALUATION.

''(a) ANNUAL REPORT TO SECRETARY.—An eligible entity receiving funds under section 3302 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under section 3302, including—

''(1) the programming that has been developed directly or indirectly by the eligible entity, and the target population of the programs developed;

''(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

''(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

''(4) the initiatives undertaken by the eligible entity to develop public-private partnerships to secure non-Federal support for the development, distribution and broadcast of educational and instructional programming.

''(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

''(1) a summary of activities assisted under section 3303(a); and

''(2) a description of the training materials made available under section 3304(1)(D), the manner in which outreach has been conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

''SEC. 3307. ADMINISTRATIVE COSTS.

''With respect to the implementation of section 3303, eligible entities receiving a grant, contract, or cooperative agreement from the Secretary may use not more than 5 percent of the amounts received under such section for the normal and customary expenses of administering the grant, contract, or cooperative agreement.

''SEC. 3308. DEFINITION.

''For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications (including through the Internet).

''SEC. 3309. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.

''(b) FUNDING RULE.—Not less than 60 percent of the amounts appropriated under subsection (a) for each fiscal year shall be used to carry out section 3303.''.

SEC. 303. SATELLITE TELEVISION NETWORK.

Title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.) is amended by adding at the end the following:

''PART G—SATELLITE TELEVISION NETWORK

''SEC. 3701. NETWORK.

''(a) IN GENERAL.—The Secretary of Education and the Secretary of Health and Human Services shall award a grant to or enter into a contract with an eligible organization to establish and operate a satellite television network to provide training for personnel of Head Start programs carried out under the Head Start Act (42 U.S.C. 9831 et seq.) and other child care providers, who serve children under age 5.

''(b) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall—

''(1) administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, within the meaning of section 648(e) of the Head Start Act (42 U.S.C. 9843(e)); and

''(2) demonstrate that the organization has entered into a partnership, to establish and operate the training network, that includes—

''(A) a nonprofit organization; and

''(B) a public or private entity that specializes in providing broadcast programs for parents and professionals in fields relating to early childhood.

''(c) APPLICATION.—To be eligible to receive a grant or contract under subsection (a), an organization shall submit an application to the Secretary of Education and the Secretary of Health and Human Services at such time, in such manner, and containing such information as the Secretaries may require.

''(d) COOPERATIVE AGREEMENT.—The Secretary of Education and the Secretary of Health and Human Services shall enter into a cooperative agreement to carry out this section.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this part $20,000,000 for fiscal year 2000 and such sums as may be necessary for each subsequent fiscal year.''.

TITLE IV—HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE

SEC. 401. BLOCK GRANTS TO STATES FOR HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE.

(a) BLOCK GRANT.—The Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) by inserting after the subchapter heading the following:

''PART 1—CHILD CARE ACTIVITIES;

and

(2) by adding at the end the following:

''PART 2—HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEMS OF CARE

''SEC. 659. PURPOSE.

''The purposes of this part are—

''(1) to help families seeking government assistance for their children, in a manner that does not usurp the role of parents, but streamlines and coordinates government services for the families;

''(2) to establish a framework of support for local early childhood development coordinating councils that—

''(A) develop comprehensive, long-range strategic plans for early childhood education, development, and support services; and

''(B) provide, through public and private means, high-quality early childhood education, development, and support services for children and families; and

''(3)(A) to support family environments conducive to the growth and healthy development of children; and

''(B) to ensure that children under age 5 have proper medical care and early intervention services when necessary.

''SEC. 659A. DEFINITIONS.

''In this part:

''(1) CHILD IN POVERTY.—The term 'child in poverty' means a young child who is an eligible child described in section 658P(4)(B).

''(2) HEALTHY EARLY CHILDHOOD DEVELOPMENT SYSTEM OF CARE.—The term 'healthy early childhood development system of care' means a system of programs that provides coordinated early childhood development services.

''(3) EARLY CHILDHOOD DEVELOPMENT SERVICES.—The term 'early childhood development services' means education, development, and support services, such as all-day kindergarten, parenting education and home visits, child care and other child development services, and health services (including prenatal care), for young children.

''(4) ELIGIBLE STATE.—The term 'eligible State' means a State that has submitted a State plan described in section 659E to the Secretary and obtained the certification of the Secretary for the plan.

''(5) GOVERNOR.—The term 'Governor' means the chief executive officer of a State.

''(6) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms 'Indian tribe' and 'tribal organization' have the meanings given the terms in section 658P.

''(7) LOCAL COUNCIL.—The term 'local council' means a local early childhood development coordinating council established or designated under section 659H.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

''(9) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(10) STATE COUNCIL.—The term 'State council' means a State early childhood development coordinating council established or designated under section 659D.

''(11) YOUNG CHILD.—The term 'young child' mean an individual under age 5.

''SEC. 659B. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this part $200,000,000 for each of fiscal years 2000 through 2004.

''(b) AVAILABILITY OF FUNDS.—Funds appropriated for a fiscal year under subsection (a) shall remain available for the succeeding 2 fiscal years.

''SEC. 659C. ALLOTMENT TO STATES.

''(a) RESERVATION.—The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the funds appropriated under section 659B for each fiscal year for payments to Indian tribes and tribal organizations to assist the tribes and organizations in supporting healthy early childhood development systems of care under this part. The Secretary shall by regulation issue requirements concerning the eligibility of Indian tribes and tribal organizations to receive funds under this subsection, and the use of funds made available under this subsection.

''(b) ALLOTMENT.—From the funds appropriated under section 659B for a fiscal year, the Secretary shall allot to each eligible State, to pay for the Federal share of the cost of supporting healthy early childhood development systems of care under this part, the sum of—

''(1) an amount that bears the same ratio to 50 percent of such funds as the number of young children in the State bears to the number of such children in all eligible States; and

''(2) an amount that bears the same ratio to 50 percent of such funds as the number of children in poverty in the State bears to the number of such children in all eligible States.

''(c) FEDERAL SHARE.—The Federal share of the cost described in subsection (b) shall be 75 percent. The non-Federal share of the cost may be provided in cash or in kind, fairly evaluated, including plant, equipment or services (provided from State or local public sources or through donations from private entities).

''SEC. 659D. STATE COUNCIL.

''(a) IN GENERAL.—The Governor of a State seeking an allotment under section 659C may, at the election of the Governor—

''(1) establish and appoint the members of a State early childhood development coordinating council, as described in subsection (b); or

''(2) designate an entity to serve as such a council, as described in subsection (c).

''(b) APPOINTED STATE COUNCIL.—The Governor may establish and appoint the members of a State council that—

''(1) may include—

''(A) the State superintendent of schools, or the designee of the superintendent;

''(B) the chief State budget officer or the designee of the officer;

''(C) the head of the State health department or the designee of the head;

''(D) the heads of the State agencies with primary responsibility for child welfare, child care, and the medicaid program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or the designees of the heads;

''(E) the heads of other State agencies with primary responsibility for services for young children or pregnant women, which may be agencies with primary responsibility for alcohol and drug addiction services, mental health services, mental retardation services, food assistance services, and juvenile justice services, or the designees of the heads;

''(F) a representative of parents or consumers;

''(G) representatives of early childhood development agencies; and

''(H) the Governor; and

''(2) may, in the discretion of the Governor, include other members, including representatives of providers.

''(c) DESIGNATED STATE COUNCIL.—The Governor may designate an entity to serve as the State council if the entity—

''(1) includes members that are substantially similar to the members described in subsection (b); and

''(2) provides integrated and coordinated early childhood development services.

''(d) CHAIRPERSON.—The Governor shall serve as the chairperson of the State council.

''(e) DUTIES.—In a State with a State council, the State council—

''(1) shall submit the State plan described in section 659E;

''(2) shall make the allocation described in section 659F(b);

''(3) may carry out activities described in section 659F(c); and

''(4) shall prepare and submit the report described in section 659F(e).

''SEC. 659E. STATE PLAN.

''(a) IN GENERAL.—To be eligible to receive an allotment under section 659C, a State shall submit a State plan to the Secretary at such time, and in such manner, as the Secretary may require, including—

''(1) in the case of a State in which the Governor elects to establish or designate a State council, sufficient information about the entity established or designated under section 659D to enable the Secretary to determine whether the entity complies with the requirements of such section;

''(2) a description of the political subdivisions designated by the State to receive funds under section 659G and carry out activities under section 659J;

''(3)(A) comprehensive information describing how the State will carry out activities described in section 659F and how political subdivisions in the State will carry out activities described in section 659J; and

''(B) State goals for the activities described in subparagraph (A);

''(4) such information as the Secretary shall by regulation require on the amount and source of State and local public funds, and donations, expended in the State to provide the non-Federal share of the cost of supporting healthy early childhood development systems of care under this part; and

''(5) an assurance that the State shall annually submit the report described in section 659F(e).

''(b) SUBMISSION.—At the election of the State, the State may submit the State plan as a portion of the State plan submitted under section 658E. With respect to that State, references to a State plan—

''(1) in this part shall be considered to refer to the portions of the plan described in this section; and

''(2) in part 1 shall be considered to refer to the portions of the plan described in section 658E.

''(c) CERTIFICATION.—The Secretary shall certify any State plan that meets the broad goals of this part.

''SEC. 659F. STATE ACTIVITIES.

''(a) IN GENERAL.—A State that receives an allotment under section 659C shall use the funds made available through the allotment to support healthy early childhood development systems of care, by—

''(1) making allocations to political subdivisions under section 659G; and

''(2) carrying out State activities described in subsection (c).

''(b) MANDATORY RESERVATION FOR LOCAL ALLOCATIONS.—The State shall reserve 85 percent of the funds made available through the allotment to make allocations to political subdivisions under section 659G.

''(c) PERMISSIBLE STATE ACTIVITIES.—The State may use the remainder of the funds made available through the allotment to support healthy early childhood development systems of care by—

''(1) entering into interagency agreements with appropriate entities to encourage coordinated efforts at the State and local levels to improve the State delivery system for early childhood development services;

''(2) advising local councils on the coordination of delivery of early childhood development services to children;

''(3) developing programs and projects, including pilot projects, to encourage coordinated efforts at the State and local levels to

improve the State delivery system for early childhood development services;

''(4) providing technical support for local councils and development of educational materials;

''(5) providing education and training for child care providers; and

''(6) supporting research and development of best practices for healthy early childhood development systems of care, establishing standards for such systems, and carrying out program evaluations for such systems.

''(d) ADMINISTRATION.—A State that receives an allotment under section 659C may use not more than 5 percent of the funds made available through the allotment to pay for the costs of administering the activities carried out under this part.

''(e) REPORT.—The State shall annually prepare and submit to the Secretary a report on the activities carried out under this part in the State, which shall include details of the use of Federal funds to carry out the activities and the extent to which the States and political subdivisions are making progress on State or local goals in carrying out the activities. In preparing the report, a State may require political subdivisions in the State to submit information to the State, and may compile the information.

''SEC. 659G. ALLOCATION TO POLITICAL SUBDIVISIONS.

From the funds reserved by a State under section 659F(b) for a fiscal year, the State shall allot to each eligible political subdivision in the State the sum of—

''(1) an amount that bears the same ratio to 50 percent of such funds as the number of young children in the political subdivision bears to the number of such children in all eligible political subdivisions in the State; and

''(2) an amount that bears the same ratio to 50 percent of such funds as the number of children in poverty in the political subdivision bears to the number of such children in all eligible political subdivisions in the State.

''SEC. 659H. LOCAL COUNCILS.

''(a) IN GENERAL.—The chief executive officer of a political subdivision that is located in a State with a State council and that seeks an allocation under section 659G may, at the election of the officer—

''(1) establish and appoint the members of a local early childhood development coordinating council, as described in subsection (b); or

''(2) designate an entity to serve as such a council, as described in subsection (c).

''(b) APPOINTED LOCAL COUNCIL.—The officer may establish and appoint the members of a local council that may include—

''(1) representatives of any public or private agency that funds, advocates the provision of, or provides services to children and families;

''(2) representatives of schools;

''(3) members of families that have received services from an agency represented on the council;

''(4) representatives of courts; and

''(5) private providers of social services for families and children.

''(c) DESIGNATED LOCAL COUNCIL.—The officer may designate an entity to serve as the local council if the entity—

''(1) includes members that are substantially similar to the members described in subsection (b); and

''(2) provides integrated and coordinated early childhood development services.

''(d) DUTIES.—In a political subdivision with a local council, the local council—

''(1) shall submit the local plan described in section 659I;

''(2) shall carry out activities described in section 659J(a);

''(3) may carry out activities described in section 659J(b); and

''(4) shall submit such information as a State council may require under section 659F(e).

''SEC. 659I. LOCAL PLAN.

''To be eligible to receive an allocation under section 659G, a political subdivision shall submit a local plan to the State at such time, in such manner, and containing such information as the State may require.

''SEC. 659J. LOCAL ACTIVITIES.

''(a) MANDATORY ACTIVITIES.—A political subdivision that receives an allocation under section 659G shall use the funds made available through the allocation—

''(1) to provide assistance to entities carrying out early childhood development services through a healthy early childhood development system of care, in order to meet assessed needs for the services, expand the number of children receiving the services, and improve the quality of the services, both for young children who remain in the home and young children that require services in addition to services offered in child care settings; and

''(2)(A) to establish and maintain an accountability system to monitor the progress of the political subdivision in achieving results for families and children through services provided through the healthy early childhood development system of care for the political subdivision; and

''(B) to establish and maintain a mechanism to ensure ongoing input from a broad and representative set of families who are receiving services through the healthy early childhood development system of care for the political subdivision.

''(b) PERMISSIBLE ACTIVITIES.—A political subdivision that receives an allocation under section 659G may use the funds made available through the allocation—

''(1) to improve the healthy early childhood development system of care by enhancing efforts and building new opportunities for—

''(A) innovation in early childhood development services; and

''(B) formation of partnerships with businesses, associations, churches or other religious institutions, and charitable or philanthropic organizations to provide early childhood development services on behalf of young children; and

''(2) to develop and implement a process that annually evaluates and prioritizes services provided through the healthy early childhood development system of care, fills service gaps in that system where possible, and invests in new approaches to achieve better results for families and children through that system.''.

(b) CONFORMING AMENDMENTS.—Part 1 of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) is amended—

(1) in section 658A(a) (42 U.S.C. 9801 note), by striking ''This subchapter'' and inserting ''This part'';

(2) except as provided in the last sentence of section 658E(c)(2)(F) (42 U.S.C. 9858c(c)(2)(F)) and in section 658N(a)(3)(C) (42 U.S.C. 9858l(a)(3)(C)), by striking ''this subchapter'' and inserting ''this part''; and

(3) in section 658N(a)(3)(C), by striking ''under this subchapter'' and inserting ''under this part''.

TITLE V—CREDENTIALING AND ACCREDITATION

SEC. 501. DEFINITIONS.

In this title:

(1) ACCREDITED CHILD CARE FACILITY.—The term ''accredited child care facility'' means—

(A) a facility that is accredited, by a child care credentialing or accreditation entity recognized by a State or national organization described in paragraph (2)(A), to provide child care (except children who a tribal organization elects to serve through a facility described in subparagraph (B));

(B) a facility that is accredited, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization;

(C) a facility that is used as a Head Start center under the Head Start Act (42 U.S.C. 9831 et seq.) and is in compliance with applicable performance standards established by regulation under such Act for Head Start programs; or

(D) a military child development center (as defined in section 1798(1) of title 10, United States Code) that is in a facility owned or leased by the Department of Defense or the Coast Guard.

(2) CHILD CARE CREDENTIALING OR ACCREDITATION ENTITY.—The term ''child care credentialing or accreditation entity'' means a nonprofit private organization or public agency that—

(A) is recognized by a State agency, a tribal organization, or a national organization that serves as a peer review panel on the standards and procedures of public and private child care or school accrediting bodies; and

(B) accredits a facility or credentials an individual to provide child care on the basis of—

(i) an accreditation or credentialing instrument based on peer-validated research;

(ii) compliance with applicable State and local licensing requirements, or standards described in section 658E(c)(2)(E)(ii) of the Child Care and Development Block Grant Act (42 U.S.C. 9858c(c)(2)(E)(ii)), as appropriate, for the facility or individual;

(iii) outside monitoring of the facility or individual; and

(iv) criteria that provide assurances of—

(I) compliance with age-appropriate health and safety standards at the facility or by the individual;

(II) use of age-appropriate developmental and educational activities, as an integral part of the child care program carried out at the facility or by the individual; and

(III) use of ongoing staff development or training activities for the staff of the facility or the individual, including related skills-based testing.

(3) CREDENTIALED CHILD CARE PROFESSIONAL.—The term ''credentialed child care professional'' means—

(A) an individual who—

(i) is credentialed, by a child care credentialing or accreditation entity recognized by a State or a national organization described in paragraph (2)(A), to provide child care (except children who a tribal organization elects to serve through an individual described in subparagraph (B)); or

(ii) successfully completes a 4-year or graduate degree in a relevant academic field (such as early childhood education, education, or recreation services);

(B) an individual who is credentialed, by a child care credentialing or accreditation entity recognized by a tribal organization, to provide child care for children served by the tribal organization; or

(C) an individual certified by the Armed Forces of the United States to provide child care as a family child care provider (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n)) in military family housing.

(4) CHILD IN POVERTY.—The term ''child in poverty'' means a child that is a member of a family with an income that does not exceed 200 percent of the poverty line.

(5) POVERTY LINE.—The term ''poverty line'' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(7) STATE; TRIBAL ORGANIZATION.—The terms ''State'' and ''tribal organization'' have the meaning given the term in section 658P of the Child Care and Development Block Grant Act (42 U.S.C. 9858n).

SEC. 502. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated to carry out this title, $20,000,000 for each of fiscal years 2000 through 2004.

SEC. 503. STATE ALLOTMENTS.

From the funds appropriated under section 502 for a fiscal year, the Secretary shall allot to each eligible State, to pay for the cost of establishing and carrying out State child care credentialing and accreditation incentive programs, an amount that bears the same ratio to such funds as the number of children in poverty under age 5 in the State bears to the number of such children in all States.

SEC. 504. APPLICATION.

To be eligible to receive an allotment under section 503, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 505. STATE CHILD CARE CREDENTIALING AND ACCREDITATION INCENTIVE PROGRAM.

(a) IN GENERAL.—A State that receives an allotment under section 503 shall use funds made available through the allotment to establish and carry out a State child care credentialing and accreditation incentive program. In carrying out the program, the State shall make payments to child care providers who serve children under age 5 to assist the providers in making financial assistance available for employees of the providers who are pursuing skills-based training to—

(1) enable the employees to obtain credentialing as credentialed child care professionals; or

(2) enable the facility involved to obtain accreditation as an accredited child care facility.

(b) APPLICATION.—To be eligible to receive a payment under subsection (a), a child care provider shall submit an application to the State at such time, in such manner, and containing such information as the State may require including, at a minimum—

(1) information demonstrating that an employee of the provider is pursuing skills-based training that will enable the employee or the facility involved to obtain credentialing or accreditation as described in subsection (a); and

(2) an assurance that the provider will make available contributions toward the costs of providing the financial assistance described in subsection (a), in an amount that is not less than $1 for every $1 of Federal funds provided through the payment.

SEC. 506. ADMINISTRATION.

A State that receives an allotment under section 503 may use not more than 5 percent of the funds made available through the allotment to pay for the costs of administering the program described in section 505.

SEC. 507. CREDENTIALING, ACCREDITATION, AND RETENTION OF QUALIFIED CHILD CARE WORKERS.

Section 658G of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858e) is amended—

(1) by inserting ''and payments to encourage child care providers who serve children under age 5 to obtain credentialing as credentialed child care providers or accreditation for their facilities as accredited child care facilities or to encourage retention of child care providers who serve those children and have obtained that credentialing or accreditation, in areas that the State determines are underserved'' after ''referral services''; and

(2) by adding at the end the following: ''In this section, the terms 'credentialed child care provider' and 'accredited child care facility' have the meanings given the terms in section 501 of the Prenatal, Infant, and Child Development Act of 1999.''.

● Mr. BAYH. Mr. President, today I rise as an original co-sponsor of the Prenatal Child and Infant Development Act, a bipartisan bill to provide states with the flexibility they need to address the needs of children during their formative years.

Children are born into this world with all the potential they need to make their dreams come true. The ages of birth to 3 are the most critical for a child's development both mentally and socially. They have all the 100 billion brains cells they will need as adults. By age three, children have nearly all the necessary connections between the brain cells needed for the brain to function fully and properly. It is up to us, families, teachers, childcare providers, and communities to help our children live up to their potential. It is important that our children are ready to learn and we allow them the opportunity to maximize their potential. What income bracket a child is born into should not determine that child's future. If a child is not provided with proper health care, nutritional food, and a nurturing environment to grow up in, we are leading down a very dark path.

Sadly, it has been confirmed that children who lack proper nutrition, health care, and nurturing during their first years also lack the adequate social, motor, and language skills needed to perform well in school and in life. That is why I have joined efforts with Senator VOINOVICH and Senator GRAHAM and support the Prenatal Child and Infant Development Act. This initiative has bipartisan support because it is important legislation that addresses something we should all have in common, helping our children prepare for the future. A child birth to 3 years old that is in need of assistance can not do it on her own.

Specifically, this bill will allow States to transfer up to 45% of the money they receive for Temporary Assistance for Needy Families to the Child Care Development Block Grant or the Social Services Block Grant. The 15% increase in transferability will go towards increasing local early childhood development coordination councils and to enhance child care quality under the existing Child Care Development Block Grant. This new flexibility will allow states to spend the money needed to ensure our children are not sentenced to unfulfillment of their dreams just because they were denied child care services during their most vital development stages.

In Indiana, there are over 488,000 children under the age of six. 70% of those children are in child care. Indiana is one of those states that has transferred the entire amount currently allowed from Temporary Assistance for Needy Families funds to the Child Care Development Block Grant for child care services and quality initiatives. Even after the State was able to provide services for 65,185 children, there still remains a need to help at least an additional 267,500 children. There is a need in my State to have the flexibility to transfer and utilize funds that otherwise are not being spent so these children can be served.

One of the programs this new flexibility will allow to expand in Indiana is the Building Bright Beginnings Coalition. This coalition is focused on assisting children that are prenatal to four years old. They have reached over 150,000 parents of newborns through their publication ''A Parent's Guide to Raising Health, Happy Babies''. The coalition has implemented the ''See and Demand Quality Child Care'' campaign consisting of public service announcements, billboards, pamphlets, and a toll-free telephone line for parent information in cooperation with local resources and referral agencies. It also makes loans available to child care providers who are considered non-traditional borrowers, and it has formed an institute that creates a public private partnership with higher education as well as the health, education, and early childhood communities. In the short time this program has been in place, it has helped over 100,000 parents of newborns be better informed, over 10,000 new public private partnerships have been formed, and it has directly impacted the lives of over 15,000 children. We need more programs like this and in order for them to exist States need more flexibility with their funding streams.

These quality initiatives are administered by Indiana's Step Ahead Councils. Step Ahead Councils are the types of councils this bill hopes to promote. Indiana has had a council in each of its 92 counties since 1991. These councils allow for locally focused solutions and initiatives to locally based challenges with child care, parent information, early intervention, child nutrition and health screening. Local responses to local problems can create better solutions. This bill encourages such local involvement.

In addition, there are several other important goals this bill helps to accomplish. It will allow more programs to address the needs of prenatal to three year olds, it will increase satellite training for Head Start and other childhood program staff, it will increase direct child care and health services, and will encourage States to implement training programs for childcare providers.

As a Senator and a father of two 3½ year old boys, I am proud to support

this bill and publically voice the need to invest in all children. There is no better way to utlize a dollar than to invest it in our future. Thank you Senator VOINOVICH and Senator GRAHAM for initiating this legislation, I urge my colleagues, when the time comes, to support this bill and the message behind it.●

By Mr. BOND (for himself and Mr. KERRY):

S. 1156. A bill to amend provisions of law enacted by the Small Business Regulatory Enforcement Fairness Act of 1996 to ensure full analysis of potential impacts on small entities of rules proposed by certain agencies, and for other purposes; to the Committee on Small Business.

SMALL BUSINESS ADVOCACY REVIEW PANEL TECHNICAL AMENDMENTS ACT OF 1999

Mr. BOND. Mr. President, I rise today to introduce ''The Small Business Advocacy Review Panel Technical Amendments Act of 1999.'' I am pleased to be joined by Senator KERRY, the Ranking Member on the Small Business Committee, which I chair. Our bill is simple and straightforward. It clarifies and amends certain provisions of law enacted as part of my ''Red Tape Reduction Act,'' the Small Business Regulatory Enforcement Fairness Act of 1996. In 1996, this body led the way toward enactment of this important law. With a unanimous vote, we took a major step to ensure that small businesses are treated fairly by federal agencies.

Like the Regulatory Flexibility Act, which it amended, the Red Tape Reduction Act is a remedial statute, designed to redress the fact that uniform federal regulations impose disproportionate impacts on small entities, including small business, small not-for-profits and small governments. A recent study conducted for the Office of Advocacy of the Small Business Administration documented, yet again, that small businesses continue to face higher regulatory compliance costs than their big-business counterparts. With the vast majority of businesses in this nation being small enterprises, it only makes sense for the rulemaking process to ensure that the concerns of such small entities get a fair airing early in the development of a federal regulation.

The bill Senator KERRY and I are introducing focuses on Section 244 of the Small Business Regulatory Enforcement Fairness Act of 1996, which amended chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act). As a result, each ''covered agency'' is required to convene a Small Business Advocacy Review Panel (Panel) to receive advice and comments from small entities. Specifically, under section 609(b), each covered agency is to convene a Panel of federal employees, representing the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel of Advocacy of the Small Business Administration, and the covered agency promulgating the regulation, to receive input from small entities prior to publishing an initial Regulatory Flexibility analysis for a proposed rule with a significant economic impact on a substantial number of small entities. The Panel, which convenes for 60 days, produces a report containing comments from the small entities and the Panel's own recommendations. The report is provided to the head of the agency, who reviews the report and, where appropriate, modifies the proposed rule, initial regulatory analysis or the decision on whether the rule significantly impacts small entities. The Panel report becomes a part of the rulemaking record.

Consistent with the overall purpose of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act, the objective of the Panel process is to minimize the adverse impacts and increase the benefits to small entities affected by the agency's actions. Consequently, the true proof of each Panel's effectiveness in reducing the regulatory burden on small entities is not known until the agency issues the proposed and final rules. So far, the results are encouraging.

Under current law, the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) are the only agencies currently covered by the Panel process. Our bill adds the Internal Revenue Service (IRS) as a covered agency. In 1996, the Red Tape Reduction Act expressly included the IRS under the Regulatory Flexibility Act; however, the Treasury Department has interpreted the language in the law in a manner that essentially writes them out of the law. The Small Business Advocacy Review Panel Technical Amendments Act of 1999 clarifies which interpretative rules involving the internal revenue code are to be subject to compliance with the Regulatory Flexibility Act, for those rules with a significant economic impact on a substantial number of small entities, the IRS would be required to convene a Small Business Advocacy Review Panel.

If the Treasury Department and the IRS had implemented the Red Tape Reduction Act as Congress originally intended, the regulatory burdens on small businesses could have been reduced, and small businesses could have been saved considerable trouble in fighting unwarranted rulemaking actions. For instance, with input from the small business community early in the process, the IRS' 1997 temporary regulations on the uniform capitalization rules could have had taken into consideration the adverse effects that inventory accounting would have on farming businesses, and especially nursery growers. Similarly, if the IRS had conducted an initial Regulatory Flexibility, it would have learned of the enormous problems surrounding its limited partner regulations prior to issuing the proposal in January 1997. These regulations, which became known as the ''stealth tax regulations,'' would have raised self-employment taxes on countless small businesses operated as limited partnerships or limited liability companies, and also would have imposed burdensome new recordkeeping and collection of information requirements.

Specifically, the bill strikes the language in section 603 of title 5 that included IRS interpretative rules under the Regulatory Flexibility Act, ''but only to the extent that such interpretative rules impose on small entities a collection of information requirement.'' The Treasury Department has misconstrued this language in two ways. First, unless the IRS imposes a requirement on small businesses to complete a new OMB-approved form, the Treasury says Reg Flex does not apply. Second, in the limited circumstances where the IRS has acknowledged imposing a new reporting requirement, the Treasury has limited its analysis of the impact on small businesses to the burden imposed by the form. As a result, the Treasury Department and the IRS have turned Reg Flex compliance into an unnecessary, second Paperwork Reduction Act.

To address this problem, our bill revises the critical sentence in Section 603 to read as follows:

> In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules (including proposed, temporary and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.

Coverage of the IRS under the Panel process and the technical changes I have just described are strongly supported by the Small Business Legislative Council, the National Association for the Self-Employed, and many other organizations representing small businesses. Even more significantly, these changes have the support of the Chief Counsel for Advocacy. I ask unanimous consent to include in the RECORD following this statement copies of letters and statements from these small business advocates.

The remaining provisions of our bill address the mechanics of convening a Panel and the selection of the small entity representatives invited to submit advice and recommendations to the Panel. While these provisions are very similar to the legislation introduced in the other body (H.R. 1882) by our colleagues Representatives TALENT, VELAZQUEZ, KELLY, BARTLETT, and EWING, Senator KERRY has expressed some specific concerns regarding the potential for certain provisions to be misconstrued. I have agreed to work with him to address his concerns in report language and, if necessary, with minor revisions to the bill text.

Our mutual goal is to ensure that the views of small entities are brought forth through the Panel process and taken to heart by the ''covered agency'' and other federal agencies represented on the Panel—in short, to

continue the success that EPA and OSHA have shown this process has for small businesses. I thank the Senator from Massachusetts for his support, and ask unanimous consent that the Small Business Advocacy Review Panel Technical Amendments Act of 1999 be printed, following this statement.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Advocacy Review Panel Technical Amendments Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens.

(3) Federal agencies must consider the impact of their regulations on small businesses early in the rulemaking process.

(4) The Small Business Advocacy Review Panel process that was established by the Small Business Regulatory Enforcement Fairness Act of 1996 has been effective in allowing small businesses to participate in rules that are being developed by the Environmental Protection Agency and the Occupational Safety and Health Administration.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide a forum for the effective participation of small businesses in the Federal regulatory process.

(2) To clarify and strengthen the Small Business Advocacy Review Panel process.

(3) To expand the number of Federal agencies that are required to convene Small Business Advocacy Review Panels.

SEC. 3. ENSURING FULL ANALYSIS OF POTENTIAL IMPACTS ON SMALL ENTITIES OF RULES PROPOSED BY CERTAIN AGENCIES.

Section 609(b) of title 5, United States Code, is amended to read as follows:

''(b)(1) Before the publication of an initial regulatory flexibility analysis that a covered agency is required to conduct under this chapter, the head of the covered agency shall—

''(A) notify the Chief Counsel for Advocacy of the Small Business Administration (in this subsection referred to as the 'Chief Counsel') in writing;

''(B) provide the Chief Counsel with information on the potential impacts of the proposed rule on small entities and the type of small entities that might be affected; and

''(C) not later than 30 days after complying with subparagraphs (A) and (B)—

''(i) with the concurrence of the Chief Counsel, identify affected small entity representatives; and

''(ii) transmit to the identified small entity representatives a detailed summary of the information referred to in subparagraph (B) or the information in full, if so requested by the small entity representative, for the purposes of obtaining advice and recommendations about the potential impacts of the draft proposed rule.

''(2)(A) Not earlier than 30 days after the covered agency transmits information pursuant to paragraph (1)(C)(ii), the head of the covered agency shall convene a review panel for the draft proposed rule. The panel shall consist solely of full-time Federal employees of the office within the covered agency that will be responsible for carrying out the proposed rule, the Office of Information and Regulatory Affairs of the Office of Management and Budget, and the Chief Counsel.

''(B) The review panel shall—

''(i) review any material the covered agency has prepared in connection with this chapter, including any draft proposed rule;

''(ii) collect advice and recommendations from the small entity representatives identified under paragraph (1)(C)(i) on issues related to paragraphs (3), (4), and (5) of section 603(b) and section 603(c); and

''(iii) allow any small entity representative identified under paragraph (1)(C)(i) to make an oral presentation to the panel, if requested.

''(C) Not later than 60 days after the date a covered agency convenes a review panel pursuant to this paragraph, the review panel shall report to the head of the covered agency on—

''(i) the comments received from the small entity representatives identified under paragraph (1)(C)(i); and

''(ii) its findings regarding issues related to paragraphs (3), (4), and (5) of section 603(b) and section 603(c).

''(3)(A) Except as provided in subparagraph (B), the head of the covered agency shall print in the Federal Register the report of the review panel under paragraph (2)(C), including any written comments submitted by the small entity representatives and any appendices cited in the report, as soon as practicable, but not later than—

''(i) 180 days after the date the head of the covered agency receives the report; or

''(ii) the date of the publication of the notice of proposed rulemaking for the proposed rule.

''(B) The report of the review panel printed in the Federal Register shall not include any confidential business information submitted by any small entity representative.

''(4) Where appropriate, the covered agency shall modify the draft proposed rule, the initial regulatory flexibility analysis for the draft proposed rule, or the decision on whether an initial regulatory flexibility analysis is required for the draft proposed rule.''.

SEC. 4. DEFINITIONS.

Section 609(d) of title 5, United States Code, is amended to read as follows:

''(d) For the purposes of this section—

''(1) the term 'covered agency' means the Environmental Protection Agency, the Occupational Safety and Health Administration of the Department of Labor, and the Internal Revenue Service of the Department of the Treasury; and

''(2) the term 'small entity representative' means a small entity, or an individual or organization that represents the interests of 1 or more small entities.''.

SEC. 5. COLLECTION OF INFORMATION REQUIREMENT.

(a) DEFINITION.—Section 601 of title 5, United States Code, is amended—

(1) in paragraph (5) by inserting ''and'' after the semicolon;

(2) in paragraph (6) by striking ''; and'' and inserting a period; and

(3) by striking paragraphs (7) and (8).

(b) INITIAL REGULATORY FLEXIBILITY ANALYSIS.—The fourth sentence of section 603 of title 5, United States Code, is amended to read as follows: ''In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules (including proposed, temporary, and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.''.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

SMALL BUSINESS LEGISLATIVE COUNCIL,
Washington, DC, May 24, 1999.

Hon. KIT BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Small Business Legislative Council (SBLC), I would like to offer our strong support for your legislation to expand the Small Business Regulatory Enforcement Fairness Act (SBREFA) to encompass more of the activities of the Internal Revenue Service (IRS).

As you know, there is nothing more annoying to the small business community than when the IRS issues a proposed rule and it is obvious the authors have little or no understanding of the business practices of the small businesses to be covered by the rule.

OSHA and the EPA have also been identified in the past as agencies guilty of acting without a solid understanding of an industry. Thanks to your leadership, the 104th Congress fixed the problem in the case of EPA and OSHA by enacting SBREFA. Those two agencies must go out and collect information on small business before they finish development of a proposed rule. The law requires the OSHA and EPA to increase small business participation in agency rulemaking activities by convening a Small Business Advocacy Review Panel for a proposed rule with a significant economic impact on small entities. For such rules, the agencies must notify SBA's Chief Counsel of Advocacy that the rule is under development and provide sufficient information so that the Chief Counsel can identify affected small entities and gather advice and comments on the effects of the proposed rule. A Small Business Advocacy Review Panel, comprising Federal government employees from the agency, the Office of Advocacy, and OMB, must be convened to review the proposed rule and to collect comments from small businesses. Within 60 days, the panel must issue a report of the comments received from small entities and the panel's findings, which become part of the public record.

As we have said many times before, we believe your ''red tape cutting'' law, SBREFA, is one of the most significant small business laws of all time. As you know first hand, for a variety of reasons, the IRS was not included. This omission should be corrected. If there is one agency with ongoing rulemaking responsibilities that have an impact on small business, it is the IRS.

In addition, the other provisions of SBREFA apply only to the IRS when the interpretative rule of the IRS will ''impose on small entities a collection of information requirement.'' We already know the IRS has embraced an extraordinarily narrow interpretation of that phrase. We should take this opportunity to amend SBREFA to ensure the IRS complies with SBREFA any time it issues an interpetative regulation.

As you know, the SBLC is a permanent, independent coalition of eighty trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, tourism and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their

own views. For your information, a list of our members is enclosed.

As always, we appreciate your outstanding leadership on behalf of small business.

Sincerely,

DAVID GORIN,
Chairman.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

ACIL
Air Conditioning Contractors of America
Alliance for Affordable Services
Alliance for American Innovation
Alliance of Independent Store Owners and Professionals
American Animal Hospital Association
American Association of Equine Practitioners
American Bus Association
American Consulting Engineers Council
American Machine Tool Distributors Association
American Nursery and Landscape Association
American Road & Transportation Builders Association
American Society of Interior Designers
American Society of Travel Agents, Inc.
American Subcontractors Association
American Textile Machinery Association
American Trucking Associations, Inc.
Architectural Precast Association
Associated Equipment Distributors
Associated Landscape Contractors of America
Association of Small Business Development Centers
Association of Sales and Marketing Companies
Automotive Recyclers Association
Automotive Service Association
Bowling Proprietors Association of America
Building Service Contractors Association International
Business Advertising Council
CBA
Council of Fleet Specialists
Council of Growing Companies
Direct Selling Association
Electronics Representatives Association
Florists' Transworld Delivery Association
Health Industry Representatives Association
Helicopter Association International
Independent Bankers Association of America
Independent Medical Distributors Association
International Association of Refrigerated Warehouses
International Formalwear Association
International Franchise Association
Machinery Dealers National Association
Mail Advertising Service Association
Manufacturers Agents for the Food Service Industry
Manufacturers Agents National Association
Manufacturers Representatives of America, Inc.
National Association for the Self-Employed
National Association of Home Builders
National Association of Plumbing-Heating-Cooling Contractors
National Association of Realtors
National Association of RV Parks and Campgrounds
National Association of Small Business Investment Companies
National Association of the Remodeling Industry
National Chimney Sweep Guild
National Community Pharmacists Association
National Electrical Contractors Association
National Electrical Manufacturers Representatives Association
National Funeral Directors Association, Inc.
National Lumber & Building Material Dealers Association
National Moving and Storage Association
National Ornamental & Miscellaneous Metals Association
National Paperbox Association
National Society of Accountants
National Tooling and Machining Association
National Tour Association
National Wood Flooring Association
Organization for the Promotion and Advancement of Small Telephone Companies
Petroleum Marketers Association of America
Printing Industries of America, Inc.
Professional Lawn Care Association of America
Promotional Products Association International
The Retailer's Bakery Association
Saturation Mailers Coalition
Small Business Council of America, Inc.
Small Business Exporters Association
Small Business Technology Coalition
SMC Business Councils
Society of American Florists
Turfgrass Producers International
Tire Association of North America
United Motorcoach Association

OFFICE OF ADVOCACY,
U.S. SMALL BUSINESS ADMINISTRATION,
Washington, DC, May 26, 1999.

Hon. KIT BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR CHAIRMAN BOND: This is in response to your request for my views as to whether the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) should be amended to include more activities of the Internal Revenue Service (IRS).

The proposed amendments to SBREFA are constructive. In particular, applying the requirement that IRS convene Small Business Advocacy Review Panels to consider the impact of proposed rules involving the internal revenue laws is a goal that certainly would give small businesses a stronger voice in a process that affects them so dramatically.

The panel process has applied since 1996 to the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA). A panel, comprising the administrator of EPA or OSHA, the Chief Counsel for Advocacy of the Small Business Administration, and the director of the Office of Information and Regulatory Affairs, collects comments from representatives of small entities. Then the panel issues a report on the comments and the panel's findings within 60 days. This process has been extremely helpful in identifying the likely impact of major rules on small entities, yet its tight timetable has assured that needed rules are not delayed unduly.

Tax regulations impose the most widespread burdens on small business. Therefore, it is important to have small business input at the earliest possible stage of rulemaking. This amendment builds on an existing panel process that is working well. The panel process would bring a new level of scrutiny to tax regulations, some of which have added immensely to small entity burdens in the past.

At the same time, I am mindful that this expansion will add significantly to the workload of both the Office of Advocacy and the IRS, and I hope suitable staffing adjustments to accommodate this important added work will be made.

Thank you for soliciting my views.

Sincerely,

JERE W. GLOVER,
Chief Counsel for Advocacy.

Mr. KERRY. Mr. President, as Ranking Democrat on the Committee on Small Business, I join Committee Chairman BOND in introducing the Small Business Advocacy Review Panel Technical Amendments Act of 1999. While there are a few minor points that Chairman BOND and I have agreed to work out before the Committee considers the bill, we both agree that this is an important piece of legislation which should be enacted promptly to facilitate the Small Business Enforcement Fairness Act process. This process enables small entity representatives to participate in rulemakings by the Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and, under this bill, the Internal Revenue Service (IRS) of the Department of Treasury.

This bill improves and enhances the Small Business Regulatory Enforcement Fairness Act of 1996, which has not only reduced regulatory burdens that otherwise would have been placed on small businesses, but also has begun to institute a fundamental change in the way Federal agencies promulgate rules that could have ''a substantial economic impact on a substantial number of small businesses.'' Federal agencies are required under existing law to form so-called SBREFA panels in conjunction with the Office of Information and Regulatory Affairs in the Office of Management and Budget, and with small entities, or their representatives. These SBREFA panels are charged with creating flexible regulatory options that would allow small businesses to continue to operate without sacrificing the environmental, or health and safety goals of the proposed rule.

These panels have been highly effective in saving small businesses regulatory compliance costs. To date, seventeen (17) Small Business Regulatory Enforcement Fairness Act panels have been convened by the EPA, and three (3) by the OSHA. According to SBA's Office of Advocacy, since the law's enactment in 1996, the EPA SBREFA panels have saved small businesses almost $1 billion, and the OSHA SBREFA panels have saved small businesses about $2 billion.

While the process has obviously worked well to date, there are a few technical changes that we are proposing to help the process work even better. These changes were recommended by selected small entity representatives who have experience with the SBREFA panel process, and who testified at a joint hearing held by the House Small Business Committee's Subcommittees on Regulatory Reform and Paperwork Reduction, and Government Programs and Oversight on March 11, 1999.

Let me take a minute to describe the provisions of the bill.

This bill would lengthen by thirty (30) days the time that small entity representatives have to review the usually technical and voluminous materials to be considered during panel deliberations. For those small businessmen and women who would like to participate but do not have a great deal of time to review technical data, the bill requires OSHA, EPA and IRS to prepare detailed summaries of background data and information.

The bill would also allow a small entity representative, if he or she so chooses to, make an oral presentation to the panel.

Many small entities have expressed their interest in reviewing the panel report before the rule is proposed, and this bill would require the panel report to be printed in the Federal Register either as soon as practicable or with the proposed rule, but in no case, later than six (6) months after the rule is proposed.

Moreover, the bill would add certain rules issued by Internal Revenue Service to the panel requirements of SBREFA. Many small businesses complain that they are overwhelmed with the large burdens that the IRS places on them. It is the goal of this bill to hold the IRS accountable for the interpretative rules they issue that have a major impact on small business concerns, and to open up the rulemaking process so small entities can participate.

This new authority would significantly increase the workload of SBA's Office of Advocacy, the Federal office charged with monitoring agency compliance with the Regulatory Flexibility Act, including SBREFA. Chairman BOND and I agree that it is important that the Office of Advocacy have adequate resources to fulfill the new responsibilities mandated by this bill. Therefore, we plan to send a letter jointly to Appropriations Subcommittee on Commerce, Justice and State Chairman and Ranking Member Senators GREGG and HOLLINGS requesting them to approve additional funding for the Office of Advocacy to handle these additional responsibilities under the law.

I am proud to support this legislation. I believe it will result in significant savings for small businesses and will improve the mechanism for their voices to be heard.

Finally, I would like to thank Chairman BOND and his staff for their efforts working with me and my staff to produce this important bill.

By Mr. SMITH of New Hampshire (for himself, Mr. INHOFE, Mr. THURMOND, Mr. NICKLES, Mr. HELMS, and Mr. COCHRAN):

S. 1157. A bill to repeal the Davis-Bacon Act and the Copeland Act; to the Committee on Health, Education, Labor, and Pensions.

DAVIS-BACON REPEAL ACT OF 1999

Mr. SMITH of New Hampshire. Mr. President, I rise today to introduce the Davis-Bacon Repeal Act of 1999. This legislation would repeal the Davis-Bacon Act of 1931, which guarantees high wages for workers on Federal construction projects, and the Copeland Act, which imposes weekly payroll reporting requirements.

Davis-Bacon requires contractors on Federal construction projects costing over $2,000 to pay their workers no less than the ''prevailing wage'' for comparable work in their local area. The U.S. Department of Labor has the final say on what the term ''prevailing wage'' means, but the prevailing wage usually is based on union-negotiated wages.

My bill would allow free market forces, rather than bureaucrats at the Labor Department in Washington, DC., to determine the amount of construction wages. There is simply no need to have the Labor Department dictating wage rates for workers on Federal construction projects in every locality in the United States.

The Department of Labor's Office of the Inspector General recently issues a devastating report showing that inaccurate information had been used in Davis-Bacon wage determinations in several states. The errors caused wages or fringe benefits to be overstated by as much as $1.00 per hour, in some cases. If Davis-Bacon were repealed, American taxpayers would save more than $3 billion over a 5-year period, according to the Congressional Budget Office.

Davis-Bacon also stifles competition in Federal bidding for construction projects, especially with respect to small businesses. Small construction companies are not knowledgeable about Federal contracting procedures; and they simply cannot afford to hire the staff needed to comply with Davis-Bacon's complex work rules and reporting requirements.

Congress passed Davis-Bacon during the Great Depression, a period in which work was scarce. In those days, construction workers were willing to take what jobs they could find, regardless of the wage rate; most construction was publicly financed; and there were no other Federal worker protections on the books.

Conditions in the construction industry have changed a lot since then, however. Today, unemployment rates are low, and public works construction makes up only about 20 percent of the construction industry's activity. Also, we now have many Federal laws on the books to protect workers. Such laws include the Fair Labor Standards Act of 1938, which imposes a general minimum wage, the Occupational Safety and Health Act of 1970, the Miller Act of 1935, the Contract Work House and Safety Standards Act of 1962, and the Social Security Act.

Yet the construction industry still has to operate under Davis-Bacon's inflexible 1930s work requirements and play by its payroll reporting rules. Under the law's craft-by-craft requirements, for example, contractors must pay Davis-Bacon wages for individuals who perform a given craft's work. In many cases, that means a contractor either must pay a high wage to an unskilled worker for performing menial tasks, or he must pay a high wage to an experienced worker for these menial tasks. These requirements reduce productivity.

A related problem with Davis-Bacon is that it reduces entry-level jobs and training opportunities for the disadvantaged. Because the law makes it costly for contractors to hire lower-skilled workers on construction projects, the statute creates a disincentive to hire entry-level workers and provide on-the-job training.

The Congressional Budget Office raised this issue in its analysis, ''Modifying the Davis-Bacon Act: Implications for the Labor Market and the Federal Budget.'' As stated in that 1983 study:

> Although the effect of Davis-Bacon on wages receives the most attention, the Act's largest potential cost impact may derive from its effect on the use of labor. For one thing, DOL wage determinations require that, if an employee does the work of a particular craft, the wage paid should be for the craft.
>
> For example, carpentry work must be paid for at carpenters' wages, even if performed by a general laborer, helper or member of another craft.

Moreover, the General Accounting Office has maintained that the Davis-Bacon Act is no longer needed. GAO began to openly question Davis-Bacon in the 1960s; and in 1979, it issued a report calling for the Act's repeal. Titled ''The Davis-Bacon Act Should Be Repealed,'' the report states: ''[o]ther wage legislation and changes in economic conditions and in the construction industry since the law was passed make the law obsolete; and the law is inflationary.''

To those who remain unconvinced that Davis-Bacon is bad public policy, I urge a review of the Act's legislative history. Some early supporters of Davis-Bacon advocated its passage as a means to discriminate against minorities. For instance, Clayton Allgood, a member of the 71st Congress, argued on the House floor that Davis-Bacon would keep contractors from employing ''cheap colored labor'' on construction projects. As stated by Congressman Allgood on February 28, 1931, ''it is labor of that sort that is in competition with white labor throughout the country.'' Unfortunately, Davis-Bacon still has the effect of keeping minority-owned construction firms from competing for Federal construction contract, because many such firms are small businesses.

Early supporters of Davis-Bacon also believed that the law would prevent outside contractors from undermining local firms in the Federal bidding process. In practice, however, Davis-Bacon wages hurt local businesses and make it more likely that outside contractors will win bids for Federal projects.

Mr. President, for all of the above reasons, I believe that the Davis-Bacon Act should be repealed. I urge my colleagues to support the Davis-Bacon Repeal Act of 1999.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1157

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DAVIS-BACON ACT.

(a) REPEAL.—The Act of March 3, 1931 (40 U.S.C. 276a et seq.) (commonly referred to as the Davis-Bacon Act) is repealed.

(b) REFERENCES.—Any reference in any law to a wage requirement of the Act of March 3, 1931, shall after the date of the enactment of this Act be null and void.

SEC. 2. COPELAND ACT.

Section 2 of the Act of June 13, 1934 (40 U.S.C. 276c) (commonly referred to as the ''Copeland Act'') is repealed.

SEC. 3. EFFECTIVE DATE.

The amendments made by sections 1 and 2 shall take effect 30 days after the date of the enactment of this Act but shall not affect any contract in existence on such date of enactment or made pursuant to invitation for bids outstanding on such date of enactment.

Mr. NICKLES. Mr. President, I am happy to join Senator BOB SMITH as a cosponsor of the Davis-Bacon Repeal Act of 1999.

I believe Davis-Bacon repeal is long overdue. This 68-year-old legislation requires contractors to pay workers on federally-subsidized projects what the Labor Department determines is the local prevailing wage. What Davis-Bacon actually does is cost the Federal Government billions of dollars, divert funds out of vitally important projects, and limit opportunities for employment.

In my own State of Oklahoma, it has been proven that many ''prevailing wages'' have been calculated using fictitious projects, ghost workers, and companies established to pay artificially high wages. Oklahoma officials have reported that many of the wage survey forms submitted to the U.S. Department of Labor to calculate Federal wage rates in Oklahoma were wrong or fraudulent.

Records showed that an underground storage tank was built using 20 plumbers and pipefitters paid $21.05 an hour but no such tank was ever built. In another case, several asphalt machine operators were reported to have been employed at $15 an hour to build a parking lot but the lot was made of concrete, there were no asphalt operators, and the actual Davis-Bacon wage should have been $8 an hour. Ultimately, the Oklahoma Secretary of Labor established that at least two of the inflated Oklahoma reports were filled out by union officials.

The Davis-Bacon Act also diverts urgently needed Federal funds. After the 1995 bombing of the Murrah Federal building in Oklahoma City, Mayor Ron Norick of Oklahoma City estimated that the city could have saved $15 million in construction costs had the President waived the Davis-Bacon Act.

This money could have been used to provided additional assistance to those impacted by the bombing and to further rebuild the area around the Murrah site. The Federal role in disaster situations should be to empower communities and foster flexibility so that rebuilding efforts can proceed in the best manner possible.

The Congress should repeal a law that discourages, rather than encourages, the employment of lower skilled or non-skilled workers.

Davis-Bacon began as a way to keep small and minority businesses out of the government pie, and today it still does, reaching even further. Repeal of the act will take wage setting out of the hands of bureaucrats and return the determination of labor costs on construction projects to the efficiencies of the competitive marketplace. This would result in a more sound fiscal policy through payment of actual market-based local wage rates; more entry-level jobs in construction industry for youth, minorities, and women; and more small businesses bidding on Federal contracts.

The Davis-Bacon Repeal Act will provide increased job opportunities for those who might not ordinarily have the chance to enter the workforce, the opportunity to learn a trade, and the opportunity to climb the economic ladder.

I applaud Senator SMITH for his efforts and appreciate the chance to cosponsor this bill.

By Mr. HUTCHINSON:

S. 1158. A bill to allow the recovery of attorney's fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board or by the Occupational Safety and Health Administration; to the Committee on Health, Education, Labor, and Pensions.

FAIR ACCESS TO INDEMNITY AND REIMBURSEMENT ACT

● Mr. HUTCHINSON. Mr. President, it is my honor today to introduce the ''Fair Access to Indemnity and Reimbursement Act'' (the ''FAIR Act''), which will amend the National Labor Relations Act and the Occupational Safety and Health Act to provide that a small employer prevailing against either agency will be automatically entitled to recover the attorney's fees and expenses it incurred to defend itself.

The FAIR Act is necessary because the National Labor Relations Board (''NLRB'') and Occupational Safety and Health Agency (''OSHA'') are two aggressive, well-funded agencies which share a ''find and fine'' philosophy. The destructive consequences that small businesses suffer as a result of these agencies' ''find and fine'' approach are magnified by the abuse of ''salting'' or the placement of paid union organizers and their agents in non-union workplaces for the sole purpose of disrupting the workforce. ''Salting abuse'' occurs when ''salts'' create labor law violations or workplace hazards and then file frivolous claims with the NLRB or OSHA. Businesses are then often forced to spend thousands and sometimes hundreds of thousands of dollars to defend themselves against NLRB or OSHA as these agencies vigorously prosecute these frivolous claims. Accordingly, many businesses, when faced with the cost of a successful defense, make a bottom-line decision to settle these frivolous claims rather than going out of business or laying off employees in order to finance costly litigation.

The ''FAIR Act'' will allow these employers to defend themselves rather than settling, and, more importantly, it will force the NLRB or OSHA to ensure that the claims they pursue are worthy of their efforts. The FAIR Act will accomplish this by allowing employers with up to 100 employees and a net worth of up to $7,000,000 to recover their attorneys fees and litigation expense directly from the NLRB or OSHA, regardless of whether those agencies' decision to pursue the case was ''substantially justified'' or ''special circumstances'' make an award of attorneys fees unjust. Thus, the Congressional intent behind the broadly supported, bi-partisan ''Equal Access to Justice Act'' (''EAJA'') to ''level the playing field'' for small businesses will finally be realized.

The ''FAIR Act'' is solid legislation; it is a common sense attempt to give small businesses the means to defend themselves against unfair actions. Accordingly, I ask my colleagues for their cooperation and assistance as I work to ensure that the ''FAIR Act'' is enacted into law.●

By Mr. STEVENS (for himself, Mr. COCHRAN, Mr. INOUYE, Mr. HAGEL, Mr. BINGAMAN, Mr. SHELBY, Mr. LEVIN, Mr. DODD, and Mr. THURMOND):

S. 1159. A bill to provide grants and contracts to local educational agencies to initiate, expand, and improve physical education programs for all kindergarten through 12th grade students; to the Committee on Health, Education, Labor, and Pensions.

PHYSICAL EDUCATION FOR PROGRESS ACT

Mr. STEVENS. Mr. President, today I send to the desk and introduce the Physical Education for Progress—or ''PEP''—Act. My bill would provide incentive grants for local school districts to develop minimum weekly requirements for physical education, and daily physical education if possible.

Every student in our Nation's schools, from kindergarten through grade 12, should have the opportunity to participate in quality physical education. Children need to know that physical activity can help them feel good, be successful in school and work, and stay healthy.

Engaging in sports activities provides lessons about teamwork and dealing with defeat. In my judgment, physical activity and sports are an important educational tool, and the lessons of sports may help resolve some of the problems that lead to violence in schools.

Regular physical activity produces short-term health benefits and reduces long-term risks for chronic disease, disability and premature death. Despite the proven benefits of being physically active, more than 60 percent of American adults do not engage in levels of physical activity necessary to provide health benefits.

More than a third of young people in our country aged 12 to 21 years do not regularly engage in vigorous physical activity, and the percentage of overweight young Americans has more than doubled in the past 30 years. Daily participation in high school physical education classes dropped from 42 percent in 1991 to 27 percent in 1997. Right now, only one state in our union—Illinois—currently requires daily physical education for grades K through 12. I think that is a staggering statistic. Only one State requires daily physical education for our children.

The impact of our poor health habits is staggering: obesity-related diseases now cost the Nation more than $100 billion per year, and inactivity and poor diet cause more than 300,000 deaths per year in the United States.

We know from the Centers for Disease Control and others that lifelong health-related habits, including physical activity and eating patterns, are often established in childhood. Because ingrained behaviors are difficult to change as people grow older, we need to reach out to young people early, before health-damaging behaviors are adopted.

To me, schools provide an ideal opportunity to make an enormous, positive impact on the health of our Nation. The PEP Act, to me, is an important step toward improving the health of our Nation. The PEP Act would help schools get regular physical activity back into their programs. We can, and should, help our youth establish solid health habits at an early age.

The incentive grants provided for by my bill could be used to provide physical education equipment and support to students, to enhance physical education curricula, and to train and educate physical education teachers.

The future cost savings in health care for emphasizing the importance of physical activity to a long and healthy life, to me, are immense.

By Mr. GRASSLEY (for himself and Mrs. FEINSTEIN):

S. 1160. A bill to amend the Internal Revenue Service Code of 1986 to provide marriage penalty relief, incentives to encourage health coverage, and increased child care assistance, to extend certain expiring tax provisions, and for other purposes; to the Committee on Finance.

TAX RELIEF FOR WORKING AMERICANS ACT OF 1999

Mr. GRASSLEY. Mr. President, today I am being joined by Senator FEINSTEIN in introducing the ''Tax Relief for Working Americans Act of 1999''. Congresswoman NANCY JOHNSON is introducing companion legislation in the House. We're here today to declare victory in the debate over whether or not we should have significant tax relief for the American people. The President and most congressional Democrats have now joined Republicans in support of cutting taxes. The question now is not whether there should be tax cuts, but what kind, and how much. I can't think of a better problem to have.

With our core tax cut plan, we're proposing a major first step in sending hard-earned dollars out of Washington and back to the taxpayer. I support an across the board tax cut. But, I'm afraid that if we do that first, we won't have any money left over to pay for tax cuts that people are telling me they really want, like addressing the marriage penalty, providing health care tax relief, and more help for education. They want these problems in the tax code fixed first. An across the board cut won't fix these problems, it'll only compound them. That isn't fair. And we're saying fairness should come first.

The President only offered modest tax cuts, along with a new retirement savings proposal that nobody understands, and many question whether it will work. And then, he wants to raise other taxes to pay for it. The President wants it both ways. He wants to be able to take credit for a tax cut on the one hand, while he's raising taxes on the other. We deserve what we get, if we let him get away with the double talk we all know so well.

We have two alternatives. One is to push for an across the board tax cut first, and let the President and some in Congress play the class warfare card they play so well. And in the end, we probably end up with no tax relief. Senator FEINSTEIN and I are saying that we should take the initiative and push for major tax relief that people really want and both Republicans and Democrats support. Our package will provide close to $300 billion in tax relief over ten years. I, for one, view this as a very strong starting point in determining how the coming on-budget surplus will be used.

Among other things, our bill will provide tax relief for senior citizens, those who are married, those who need to buy their own health insurance, and those who purchase long-term care insurance. Moreover, it will include provisions to ensure that parents who make use of education or child care tax credits are not hurt by the Alternative Minimum Tax. We also hope to improve the living standards of Americans through tax relief for urban revitalization, rural preservation, rental housing, and economic growth. We also provide needed tax assistance to farmers by shielding them from the Alternative Minimum Tax, and allowing them to set up special tax-deferred savings accounts to help them weather the ups and downs of farming. And, we help improve the environment by extending the production tax credit for wind energy and expanding the credit for biomass. I've strongly supported both of these alternative energies since taking the lead on them back in 1992.

We think this package is a good start in the process of delivering tax relief to the American people, and I urge my colleagues to join us in this effort.

Mrs. FEINSTEIN. Mr. President, I rise, along with my colleague from Iowa, to introduce the Tax Relief for Working Americans Act—what I consider to be a ''fair share'' tax plan. This bill, while protecting our Social Security and Medicare needs, will also allow all Americans to benefit from our economic prosperity.

The American people are responsible for the more than $4 trillion in budget surpluses over the next 15 years, so it makes sense to give them some needed and deserved tax relief.

The Tax Relief for Working Americans Act is a sensible and moderate bill that provides needed tax relief for working families. It does so, moreover, in a fiscally responsible manner which protects Social Security and Medicare. This tax plan is estimated to provide tax relief of $271 billion over ten years, fitting within the budget framework set out by the President to protect Social Security and Medicare.

The legislation will provide relief to 21 million working couples who incur the marriage penalty by increasing the standard deduction to put them on equal footing with unmarried couples. A married couple in the 28% bracket, for example, will save $392.

It includes tax incentives for the over 30 million Americans who purchase their own health insurance or who pay more than 50% of their employer provided health care insurance. This means a family that earns $60,000 and pays $4,000 a year for health insurance will receive a tax credit of $2,400.

And it will raise the Social Security Earnings test to $30,000, so that the 1.1 million seniors between the ages of 65 and 69 who earn more than $15,500 would be able to keep more of their hard earned dollars. For a 67 year old secretary who earns $30,000 a year this would mean she will save nearly $5,000.

Under this legislation, millions of Americans who struggle to afford decent child care, will receive increased benefits from the Dependent Care Tax Credit. The credit will increase from 30% to 50% by 2004 and millions more will qualify for the maximum credit. When fully in effect, a family which earns $30,000 and spends $5,000 a year on child care for their two children will receive a $2,400 tax credit which should eliminate any federal tax liability.

This legislation will also help to expand our economy by making permanent the Research and Development tax credit. Research and development

is the backbone of our new technology driven economy. It is creating millions of high wage, high skilled jobs. The R&D credit has been extended 9 times since 1981, but it has been allowed to expire 4 times during that period. Now is the time to make it permanent.

There are also other important provisions in this legislation to promote long-term care, create more affordable housing, make education more affordable, and to help our farmers.

I believe that this tax plan is one which can, and will, receive broad bipartisan support. It is a tax plan which Congress can pass and the President can sign. I urge my colleagues to work with the Senator from Iowa and myself, and to pass the Tax Relief for Working Americans Act.

By Mr. BENNETT (for himself, Mrs. MURRAY, Mr. SCHUMER, and Mr. TORRICELLI):

S. 1163. A bill to amend the Public Health Service Act to provide for research and services with respect to lupus; to the Committee on Health, Education, Labor, and Pensions.

LUPUS RESEARCH AND CARE AMENDMENTS OF 1999

● Mr. BENNETT. Mr. President, I rise today to introduce the Lupus Research and Care Amendments of 1999. This legislation would authorize additional funds for lupus research and grants for state and local governments to support the delivery of essential services to low-income individuals with lupus and their families. The National Institute of Health (NIH) spent about $42 million less than one half of one percent of its budget on lupus research last year. I believe that we need to increase the funds that are available for research of this debilitating disease.

Lupus is not a well-known disease, nor is it well understood. Yet, at least 1,400,000 Americans have been diagnosed with lupus and many more are either misdiagnosed or not diagnosed at all. More Americans have lupus than AIDS, cerebral palsy, multiple sclerosis, sickle-cell anemia or cystic fibrosis. Lupus is a disease that attacks and weakens the immune system and is often life-threatening. Lupus is nine times more likely to affect women than men. African-American women are diagnosed with lupus two to three times more often than Caucasian women. Lupus is also more prevalent among certain minority groups including Latinos, Native Americans and Asians.

Because lupus is not well understood, it is difficult to diagnose, leading to uncertainty on the actual number of patients suffering from lupus. The symptoms of lupus make diagnosis difficult because they are sporadic and imitate the symptoms of many other illnesses. If diagnosed early and with proper treatment, the majority of lupus cases can be controlled. Unfortunately, because of the difficulties in diagnosing lupus and inadequate research, many lupus patients suffer debilitating pain and fatigue. The resulting effects make it difficult, if not impossible, for individuals suffering from lupus to carry on normal everyday activities including the demands of a job. Thousands of these debilitating cases needlessly end in death each year.

Title I of the Lupus Research and Care Amendments of 1999 authorizes $75 million in grants starting in fiscal year 2000 to be earmarked for lupus research at NIH. This new authorization would amount to less than one half of one percent of NIH's total budget but would greatly enhance NIH's research.

Title II of the Lupus Research and Care Amendments of 1999 authorizes $40 million in grants to state and local governments as well as to nonprofit organizations starting in fiscal year 2000. These funds would support the delivery of essential services to low-income individuals with lupus and their families. I would urge all my colleagues, Mr. President, to join Senator MURRAY, Senator TORRICELLI, Senator SCHUMER, and myself in sponsoring this legislation to increase funding to fight lupus.●

By Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK)

S. 1164. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT OF 1999

Mr. HATCH. Mr. President, I rise today with my friend and colleagues Senators BAUCUS and MACK to introduce the International Tax Simplification for American Competitiveness Act of 1999. This bill will provide much-needed tax relief from complex and inconsistent tax laws that burden our American-owned companies attempting to complete in the world marketplace.

Our foreign tax code is in desperate need of reform and simplification. The rules in this arena are way too complex and, often, their results are perverse.

Mr. President, the American economy has experienced significant growth and prosperity. That success, however, is becoming more and more intertwined with the success of our business in the global marketplace. This has become even more obvious during the recent financial distress in Asia and Latin America. Yet, most people still do not realize the important contributions to our economy from U.S. companies with global operations. We have seen the share of U.S. corporate profits attributed to foreign operations rise from 7.5 percent in the 1960's to 17.7 percent in the 1990's.

As technology blurs traditional boundaries, and as competition continues to increase from previously lesser-developed nations, it is imperative that American-owned businesses be able to compete effectively.

It seems to me that any rule, regulation, requirement, or tax that we can alleviate to enhance competitiveness will inure to the benefit of American companies, their employees, and shareholders.

There are many barriers that the U.S. economy must overcome in order to remain competitive that Congress cannot hurdle by itself. For example, we have international trade negotiators working hard to remove the barriers to foreign markets that discourage and hamper U.S. trade. It is ironic, therefore, that one of the largest trade barriers is imposed by our own tax code on American companies operating abroad. Make no mistake: the complexities and inconsistencies in this section of the Tax Code have an appreciable adverse effect on our domestic economy.

The failure to deal with the barriers in our own backyard will serve only to drive more American companies to other countries with simple, more favorable tax treatment. We just saw this occur with the merger of Daimler Benz and Chrysler. The new corporation will be headquartered in Germany due to the complex international laws of the United States.

The business world is changing at an increasingly rapid pace. Tax laws have failed to keep pace with the rapid changes in the world technology and economy. Too many of the international provisions in the Internal Revenue Code have not been substantially debated and revised in over a decade. Since that time, existing international markets have changed significantly, and we have seen new markets created. The U.S. Tax Code needs to adapt to the changing times as well. Our current confusing and archaic tax code is woefully out of step with commercial realities as we approach the 21st century.

U.S. businesses frequently find themselves at a competitive disadvantage to their foreign competitors due to the high taxes and stiff regulations they often face. A U.S. company selling products abroad is often charged a higher tax rate by our own government, than a foreign company is. For example, when Kodak sells film in the U.K. or Germany, they pay higher taxes than their foreign competitor Fuji does for those same sales.

If we close American companies out of the international arena due to complex and burdensome tax rules on exports and foreign production, then we are denying them the ability to compete. Dooming them, and ourselves, to anemic economic growth and all its adverse subsidiary effects.

The bill we are introducing today is not a comprehensive solution, neither is it a set of bold new initiatives. Instead, this bill contains a set of important intermediate steps which will take us a long way toward simplifying the rules and making some sense of the international tax regime. The bill contains provisions to simplify and update the tax treatment of controlled foreign corporations, fix some of the rules relating to the foreign tax credit, and

make other changes to international tax law.

Some of these changes are in areas that are in dire need of repair, and others are changes that take into consideration the changes we have seen in international business practices and environments during the last decade.

One example of the need for updating our laws is the financial services industry. This industry has seen rapid technological and global changes that have transformed the very nature of the way these corporations do business both here and abroad. This bill contains several provisions to help adapt the foreign tax regime to keep up with these changes.

In the debate about the globalization of our economy, we absolutely cannot forget the taxation of foreign companies with U.S. operations and subsidiaries. These companies are an important part of our growing economy. They employ 4.9 million American workers. In my home state of Utah, employees at U.S. subsidiaries constitute 3.6 percent of the work force. We must ensure that U.S. tax law is written and fairly enforced for all companies in the United States.

This bill is not the end of the international tax debate. If we were to pass every provision it contains, we would still not have a simple Tax Code. We would need to make more reforms yet. We cannot limit this debate to only the intermediate changes such as those in this bill. We must not lose sight of the long term. I intend to urge broader debate about other areas in need of reform such as interest allocation, issues raised by the European Union, and subpart F itself. I believe that we must address these concerns in the next five years if we are to put U.S. corporations and the U.S. economy in a position to maintain economic position in the global economy of tomorrow.

This bill is important to the future of every American citizen. Without these changes, American businesses will see their ability to compete diminished, and the United States will have an uphill battle to remain the preeminent economic force in a changing world. This modest, but important package of international tax reforms will help to keep our businesses and our economy competitive and a driving force in the world economic picture. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent to print the text of the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''International Tax Simplification for American Competitiveness Act of 1999''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 101. PERMANENT SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) BANKING, FINANCING, OR SIMILAR BUSINESSES.—Section 954(h) (relating to special rule for income derived in the active conduct of banking, financing, or similar businesses) is amended by striking paragraph (9).

(b) INSURANCE BUSINESSES.—Section 953(e) (defining exempt insurance income) is amended by striking paragraph (10) and by redesignating paragraph (11) as paragraph (10).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of a foreign corporation beginning after December 31, 1999, and to taxable years of United States shareholders with or within which such taxable years of such foreign corporation end.

SEC. 102. STUDY OF PROPER TREATMENT OF EUROPEAN UNION UNDER SAME COUNTRY EXCEPTIONS.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study on the feasibility of treating all countries included in the European Union as 1 country for purposes of applying the same country exceptions under subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1986. Such study shall include consideration of methods of ensuring that taxpayers are subject to a substantial effective rate of foreign tax in such countries if such treatment is adopted.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under subsection (a), including recommendations (if any) for legislation.

SEC. 103. EXPANSION OF DE MINIMIS RULE UNDER SUBPART F.

(a) IN GENERAL.—Subparagraph (A) of section 954(b)(3) (relating to de minimis, etc., rules) is amended—

(1) by striking ''5 percent'' in clause (i) and inserting ''10 percent'', and

(2) by striking ''$1,000,000'' in clause (ii) and inserting ''$2,000,000''.

(b) TECHNICAL AMENDMENTS.—

(1) Clause (ii) of section 864(d)(5)(A) is amended by striking ''5 percent or $1,000,000'' and inserting ''10 percent or $2,000,000''.

(2) Clause (i) of section 881(c)(5)(A) is amended by striking ''5 percent or $1,000,000'' and inserting ''10 percent or $2,000,000''.

SEC. 104. SUBPART F EARNINGS AND PROFITS DETERMINED UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(a) IN GENERAL.—Section 964(a) (relating to earnings and profits) is amended by striking ''rules substantially similar to those applicable to domestic corporations, under regulations prescribed by the Secretary'' and inserting ''generally accepted accounting principles in the United States''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions during, and the determination of the inclusion under section 951 of the Internal Revenue Code of 1986 with respect to, taxable years of foreign corporations beginning after December 31, 1999.

SEC. 105. CLARIFICATION OF TREATMENT OF PIPELINE TRANSPORTATION INCOME.

Section 954(g)(1) (defining foreign base company oil related income) is amended by striking ''or'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', or'', and by inserting after subparagraph (B) the following new subparagraph:

''(C) the pipeline transportation of oil or gas within such foreign country.''

SEC. 106. SUBPART F TREATMENT OF INCOME FROM TRANSMISSION OF HIGH VOLTAGE ELECTRICITY.

Section 954(e) (relating to foreign base company services income) is amended by

adding at the end the following new paragraph:

''(3) EXCEPTION FOR INCOME FROM TRANSMISSION OF HIGH VOLTAGE ELECTRICITY.—The term 'foreign base company services income' does not include income derived in connection with the performance of services which are related to the transmission of high voltage electricity.''

SEC. 107. LOOK-THROUGH TREATMENT FOR SALES OF PARTNERSHIP INTERESTS.

(a) IN GENERAL.—Section 954(c) (defining foreign personal holding company income) is amended by adding at the end the following new paragraph:

''(4) LOOK-THROUGH RULE FOR CERTAIN PARTNERSHIP SALES.—

''(A) IN GENERAL.—In the case of any sale by a controlled foreign corporation of an interest in a partnership with respect to which such corporation is a 10-percent owner, such corporation shall be treated for purposes of this subsection as selling the proportionate share of the assets of the partnership attributable to such interest.

''(B) 10-PERCENT OWNER.—For purposes of this paragraph, the term '10-percent owner' means a controlled foreign corporation which owns 10 percent or more of the capital or profits interest in the partnership. The constructive ownership rules of section 958(b) shall apply for purposes of the preceding sentence.''

(b) CONFORMING AMENDMENT.—Section 954(c)(1)(B)(ii) is amended by inserting ''except as provided in paragraph (4),'' before ''which''.

SEC. 108. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply to taxable years of controlled foreign corporations beginning after December 31, 1999, and taxable years of United States shareholders with or within which such taxable years of controlled foreign corporations end.

TITLE II—PROVISIONS RELATING TO FOREIGN TAX CREDIT

SEC. 201. EXTENSION OF PERIOD TO WHICH EXCESS FOREIGN TAXES MAY BE CARRIED.

(a) GENERAL RULE.—Section 904(c) (relating to carryback and carryover of excess tax paid) is amended by striking ''in the first, second, third, fourth, or fifth'' and inserting ''in any of the first 10''.

(b) EXCESS EXTRACTION TAXES.—Paragraph (1) of section 907(f) is amended by striking ''in the first, second, third, fourth, or fifth'' and inserting ''in any of the first 10''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to excess foreign taxes arising in taxable years beginning after December 31, 1999.

SEC. 202. RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.

(a) GENERAL RULE.—Section 904 is amended by redesignating subsections (g), (h), (i), (j), and (k) as subsections (h), (i), (j), (k), and (l) respectively, and by inserting after subsection (f) the following new subsection:

''(g) RECHARACTERIZATION OF OVERALL DOMESTIC LOSS.—

''(1) GENERAL RULE.—For purposes of this subpart, in the case of any taxpayer who sustains an overall domestic loss for any taxable year beginning after December 31, 1999, that portion of the taxpayer's taxable income from sources within the United States for each succeeding taxable year which is equal to the lesser of—

''(A) the amount of such loss (to the extent not used under this paragraph in prior taxable years), or

''(B) 50 percent of the taxpayer's taxable income from sources within the United States for such succeeding taxable year,

shall be treated as income from sources without the United States (and not as income from sources within the United States).

''(2) OVERALL DOMESTIC LOSS DEFINED.—For purposes of this subsection and section 936—

''(A) IN GENERAL.—The term 'overall domestic loss' means any domestic loss to the extent such loss offsets taxable income from sources without the United States for the taxable year or for any preceding taxable year by reason of a carryback. For purposes of the preceding sentence, the term 'domestic loss' means the amount by which the gross income for the taxable year from sources within the United States is exceeded by the sum of the deductions properly apportioned or allocated thereto (determined without regard to any carryback from a subsequent taxable year).

''(B) TAXPAYER MUST HAVE ELECTED FOREIGN TAX CREDIT FOR YEAR OF LOSS.—The term 'overall domestic loss' shall not include any loss for any taxable year unless the taxpayer chose the benefits of this subpart for such taxable year.

''(3) CHARACTERIZATION OF SUBSEQUENT INCOME.—

''(A) IN GENERAL.—Any income from sources within the United States that is treated as income from sources without the United States under paragraph (1) shall be allocated among and increase the income categories in proportion to the loss from sources within the United States previously allocated to those income categories.

''(B) INCOME CATEGORY.—For purposes of this paragraph, the term 'income category' has the meaning given such term by subsection (f)(5)(E)(i).

''(4) COORDINATION WITH SUBSECTION (f).—The Secretary shall prescribe such regulations as may be necessary to coordinate the provisions of this subsection with the provisions of subsection (f).''

(b) CONFORMING AMENDMENTS.—

(1) Section 535(d)(2) is amended by striking ''section 904(g)(6)'' and inserting ''section 904(h)(6)''.

(2) Subparagraph (A) of section 936(a)(2) is amended by striking ''section 904(f)'' and inserting ''subsections (f) and (g) of section 904''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to losses for taxable years beginning after December 31, 1999.

SEC. 203. SPECIAL RULES RELATING TO FINANCIAL SERVICES INCOME.

(a) EXCEPTION FOR INTEREST ON CERTAIN SECURITIES.—Section 904(d)(2)(B) (relating to high withholding tax interest) is amended by redesignating clause (iii) as clause (iv) and by inserting after clause (ii) the following new clause:

''(iii) EXCEPTION FOR INTEREST ON DEALER PROPERTY.—The term 'high withholding tax interest' shall not include any interest on a security (within the meaning of section 475(c)(2)) which is received or accrued by a person that holds the security in connection with the holder's activities as a dealer in securities (within the meaning of section 475(c)(1)).''

(b) FINANCIAL SERVICES INCOME IN EXCESS OF 80 PERCENT OF GROSS INCOME.—Section 904(d)(2)(C) (relating to financial services income) is amended by adding at the end the following new clause:

''(iv) INCOME EXCEEDING 80 PERCENT OF GROSS INCOME.—If the financial services income (as defined in clause (i)) of any person exceeds 80 percent of gross income, the entire gross income for the taxable year shall be treated as financial services income.''

(c) EXCEPTION FOR INCOME ON DEALER PROPERTY.—Subsection 904(g) (relating to source rules in case of United States-owned foreign corporations) is amended by redesignating paragraph (11) as paragraph (12) and by adding after paragraph (10) the following new paragraph:

''(11) EXCEPTION FOR INCOME ON DEALER PROPERTY.—Paragraph (1) shall not apply to any amount derived from a United States-owned foreign corporation that is derived from income on a security (within the meaning of section 475(c)(2)) which is received or accrued by a person that holds the security in connection with the holder's activities as a dealer in securities (within the meaning of section 475(c)(1)).''

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

(2) DEEMED PAID CREDITS.—In the case of any credit under section 901 of the Internal Revenue Code of 1986 by reason of section 902 or 960 of such Code, the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1999, and to taxable years of United States shareholders in such corporations with or within which such taxable years of foreign corporations end.

SEC. 204. LOOK-THRU RULES TO APPLY TO DIVIDENDS FROM NONCONTROLLED SECTION 902 CORPORATIONS.

(a) IN GENERAL.—Section 904(d)(4) (relating to look-thru rules apply to dividends from noncontrolled section 902 corporations) is amended to read as follows:

''(4) LOOK-THRU APPLIES TO DIVIDENDS FROM CONTROLLED SECTION 902 CORPORATIONS.—

''(A) IN GENERAL.—For purposes of this subsection, any dividend from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income in a separate category in proportion to the ratio of—

''(i) the portion of earnings and profits attributable to income in such category, to

''(ii) the total amount of earnings and profits.

''(B) SPECIAL RULES.—For purposes of this paragraph—

''(i) IN GENERAL.—Rules similar to the rules of paragraph (3)(F) shall apply.

''(ii) EARNINGS AND PROFITS.—

''(I) IN GENERAL.—The rules of section 316 shall apply.

''(II) REGULATIONS.—The Secretary may prescribe regulations regarding the treatment of distributions out of earnings and profits for periods before the taxpayer's acquisition of the stock to which the distributions relate.''

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 904(d)(1), as in effect both before and after the amendments made by section 1105 of the Taxpayer Relief Act of 1997, is hereby repealed.

(2) Section 904(d)(2)(C)(iii), as so in effect, is amended by striking subclause (II) and by redesignating subclause (III) as subclause (II).

(3) The last sentence of section 904(d)(2)(D), as so in effect, is amended to read as follows: ''Such term does not include any financial services income.''

(4) Section 904(d)(2)(E) is amended by striking clauses (ii) and (iv) and by redesignating clause (iii) as clause (ii).

(5) Section 904(d)(3)(F) is amended by striking ''(D), or (E)'' and inserting ''or (D)''.

(6) Section 864(d)(5)(A)(i) is amended by striking ''(C)(iii)(III)'' and inserting ''(C)(iii)(II)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 205. APPLICATION OF LOOK-THRU RULES TO FOREIGN TAX CREDIT.

(a) INTEREST, RENTS, AND ROYALTIES.—

(1) NONCONTROLLED SECTION 902 CORPORATION.—Section 904(d)(4)(A), as amended by section 204, is amended to read as follows:

''(A) IN GENERAL.—For purposes of this subsection—

''(i) any applicable dividend shall be treated as income in a separate category in proportion to the ratio of—

''(I) the portion of the earnings and profits attributable to income in such category, to

''(II) the total amount of earnings and profits, and

''(ii) any interest, rent, or royalty which is received or accrued from a noncontrolled section 902 corporation with respect to the taxpayer shall be treated as income in a separate category to the extent it is properly allocable (under regulations prescribed by the Secretary) to income of such corporation in such category.''

(2) PARTNERSHIPS.—Section 904(d)(6)(C) (relating to regulations) is amended—

(A) by inserting ''or (4)(A)(ii)'' after ''paragraph (3)(C)'', and

(B) by inserting ''or noncontrolled section 902 corporations, whichever is applicable'' after ''controlled foreign corporations''.

(3) CONFORMING AMENDMENT.—The heading for section 904(d)(4), as amended by section 204, is amended by inserting '', INTEREST, RENTS, OR ROYALTIES'' after ''DIVIDENDS''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 206. ORDERING RULES FOR FOREIGN TAX CREDIT CARRYOVERS.

(a) IN GENERAL.—Section 904(c) (relating to carryback and carryover of excess tax paid), as amended by section 201, is amended to read as follows:

''(c) CARRYBACK AND CARRYOVER OF EXCESS TAX PAID.—

''(1) IN GENERAL.—If the sum of—

''(A) the foreign tax credit carryovers under this subsection to a taxable year, plus

''(B) the amount of all taxes paid to foreign countries or possessions of the United States for the taxable year and for which the taxpayer elects to have the benefits of this subpart apply,

exceeds the limitation under subsection (a), such excess (to the extent attributable to the taxes described in subparagraph (B)) shall be a foreign tax credit carryback to each of the 2 preceding taxable years and a foreign tax credit carryforward to each of the 10 following taxable years.

''(2) ORDERING RULES.—For purposes of any provision of the title where it is necessary to ascertain the extent to which the credits to which this subpart applies are used in a taxable year or as a carryback or carryforward, such taxes shall be treated as used—

''(A) first from carryovers to such taxable year,

''(B) then from credits arising in such taxable year, and

''(C) finally from carrybacks to such taxable year.

''(3) LIMITATIONS ON CARRYOVERS.—

''(A) CREDIT ONLY.—A credit may be carried to a taxable year under this subsection only if the taxpayer chooses for such taxable year to have the benefits of this subpart apply to taxes paid or accrued to foreign countries or any possessions of the United States. Any amount so carried may be availed of only as a credit and not a deduction.

''(B) LIMITATION TO APPLY.—The amount of the credit carryforward or carryback to a taxable year (the 'carryover year') from a taxable year under this subsection shall not exceed the excess (if any) of—

''(i) the limitation under subsection (a) for the carryover year, over

''(ii) the sum of—

''(I) the credits arising in the carryover year, plus

''(II) carryforwards and carrybacks to the carryover year from taxable years earlier than the taxable year from which the credit is being carried (whether or not the taxpayer chooses to have the benefits of this subpart apply with respect to such earlier taxable year).''

(b) EFFECTIVE DATE.—The amendment made by this section applies to taxable years beginning after December 31, 1999.

SEC. 207. REPEAL OF LIMITATION OF FOREIGN TAX CREDIT UNDER ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 59(a) (relating to alternative minimum tax foreign tax credit) is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) CONFORMING AMENDMENT.—Section 53(d)(1)(B)(i)(II) is amended by striking ''and if section 59(a)(2) did not apply''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 208. REPEAL OF SPECIAL RULES FOR APPLYING FOREIGN TAX CREDIT IN CASE OF FOREIGN OIL AND GAS INCOME.

(a) IN GENERAL.—Section 907 (relating to special rules in case of foreign oil and gas income) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Each of the following provisions are amended by striking ''907,'':

(A) Section 245(a)(10).

(B) Section 865(h)(1)(B).

(C) Section 904(d)(1).

(D) Section 904(g)(10)(A).

(2) Section 904(f)(5)(E)(iii) is amended by inserting '', as in effect before its repeal by the International Tax Simplification for American Competitiveness Act of 1999'' after ''section 907(c)(4)(B)''.

(3) Section 954(g)(1) is amended by inserting '', as in effect before its repeal by the International Tax Simplification for American Competitiveness Act of 1999'' after ''907(c)''.

(4) Section 6501(i) is amended—

(A) by striking '', or under section 907(f) (relating to carryback and carryover of disallowed oil and gas extraction taxes)'', and

(B) by striking ''or 907(f)''.

(5) The table of sections for subpart A of part III of subchapter N of chapter 1 is amended by striking the item relating to section 907.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

TITLE III—OTHER PROVISIONS

SEC. 301. DEDUCTION FOR DIVIDENDS RECEIVED FROM CERTAIN FOREIGN CORPORATIONS.

(a) CONSTRUCTIVE OWNERSHIP RULES TO APPLY IN DETERMINING 80-PERCENT OWNERSHIP.—Section 245 (a)(5) (relating to post-1986 undistributed U.S. earnings) is amended by adding at the end the following flush sentence:

''Section 318(a) shall apply for purposes of subparagraph (B).''

(b) DIVIDENDS TO INCLUDE SUBPART F DISTRIBUTIONS.—Section 245(a) (relating to dividends from 10-percent owned foreign corporations) is amended by adding at the end the following new paragraph:

''(12) SUBPART F INCLUSIONS TREATED AS DIVIDENDS.—For purposes of this subsection, the term 'dividend' shall include any amount the taxpayer is required to include in gross income for the taxable year under section 951(a).''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 302. APPLICATION OF UNIFORM CAPITALIZATION RULES TO FOREIGN PERSONS.

(a) IN GENERAL.—Section 263A(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(7) FOREIGN PERSONS.—This section shall apply to any taxpayer who is not a United States person only for purposes of applying sections 871(b)(1) and 882(a)(1).''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1999. Section 481 of the Internal Revenue Code of 1986 shall not apply to any change in a method of accounting by reason of such amendment.

SEC. 303. TREATMENT OF MILITARY PROPERTY OF FOREIGN SALES CORPORATIONS.

(a) IN GENERAL.—Section 923(a) (defining exempt foreign trade income) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 304. UNITED STATES PROPERTY NOT TO INCLUDE CERTAIN ASSETS ACQUIRED BY DEALERS IN ORDINARY COURSE OF TRADE OR BUSINESS.

(a) IN GENERAL.—Section 956(c)(2) (relating to exceptions from property treated as United States property) is amended by striking ''and'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(L) securities acquired and held by a controlled foreign corporation in the ordinary course of its business as a dealer in securities if (i) the dealer accounts for the securities as securities held primarily for sale to customers in the ordinary course of business, and (ii) the dealer disposes of the securities (or such securities mature while held by the dealer) within a period consistent with the holding of securities for sale to customers in the ordinary course of business.''

(b) CONFORMING AMENDMENT.—Section 956(c)(2) is amended by striking ''and (K)'' in the last sentence and inserting '', (K), and (L)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1999, and to taxable years of United States shareholders or with or within which such taxable years of foreign corporations end.

SEC. 305. TREATMENT OF CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.

(a) TREATMENT OF CERTAIN DIVIDENDS.—

(1) NONRESIDENT ALIEN INDIVIDUALS.—Section 871 (relating to tax on nonresident alien individuals) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

''(k) EXEMPTION FOR CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

''(1) INTEREST-RELATED DIVIDENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any interest-related dividend received from a regulated investment company.

''(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

''(i) to any interest-related dividend received from a regulated investment company by a person to the extent such dividend is attributable to interest (other than interest described in subparagraph (E) (i) or (iii)) received by such company on indebtedness issued by such person or by any corporation or partnership with respect to which such person is a 10-percent shareholder,

''(ii) to any interest-related dividend with respect to stock of a regulated investment company unless the person who would otherwise be required to deduct and withhold tax from such dividend under chapter 3 receives a statement (which meets requirements similar to the requirements of subsection (h)(5)) that the beneficial owner of such stock is not a United States person, and

''(iii) to any interest-related dividend paid to any person within a foreign country (or any interest-related dividend payment addressed to, or for the account of, persons within such foreign country) during any period described in subsection (h)(6) with respect to such country.

Clause (iii) shall not apply to any dividend with respect to any stock which was acquired on or before the date of the publication of the Secretary's determination under subsection (h)(6).

''(C) INTEREST-RELATED DIVIDEND.—For purposes of this paragraph, an interest-related dividend is any dividend (or part thereof) which is designated by the regulated investment company as an interest-related dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified net interest income of the company for such taxable year, the portion of each distribution which shall be an interest-related dividend shall be only that portion of the amounts so designated which such qualified net interest income bears to the aggregate amount so designated.

''(D) QUALIFIED NET INTEREST INCOME.—For purposes of subparagraph (C), the term 'qualified net interest income' means the qualified interest income of the regulated investment company reduced by the deductions properly allocable to such income.

''(E) QUALIFIED INTEREST INCOME.—For purposes of subparagraph (D), the term 'qualified interest income' means the sum of the following amounts derived by the regulated investment company from sources within the United States:

''(i) Any amount includible in gross income as original issue discount (within the meaning of section 1273) on an obligation payable 183 days or less from the date of original issue (without regard to the period held by the company).

''(ii) Any interest includible in gross income (including amounts recognized as ordinary income in respect of original issue discount or market discount or acquisition discount under part V of subchapter P and such other amounts as regulations may provide) on an obligation which is in registered form; except that this clause shall not apply to—

''(I) any interest on an obligation issued by a corporation or partnership if the regulated investment company is a 10-percent shareholder in such corporation or partnership, and

''(II) any interest which is treated as not being portfolio interest under the rules of subsection (h)(4).

''(iii) Any interest referred to in subsection (i)(2)(A) (without regard to the trade or business of the regulated investment company).

''(iv) Any interest-related dividend includable in gross income with respect to stock of another regulated investment company.

''(F) 10-PERCENT SHAREHOLDER.—For purposes of this paragraph, the term '10-percent shareholder' has the meaning given such term by subsection (h)(3)(B).

''(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1)(A) of subsection (a) on any short-term capital gain dividend received from a regulated investment company.

''(B) EXCEPTION FOR ALIENS TAXABLE UNDER SUBSECTION (a)(2).—Subparagraph (A) shall not apply in the case of any nonresident alien individual subject to tax under subsection (a)(2).

''(C) SHORT-TERM CAPITAL GAIN DIVIDEND.—For purposes of this paragraph, a short-term capital gain dividend is any dividend (or part thereof) which is designated by the regulated investment company as a short-term capital gain dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including amounts so designated with respect to dividends paid after the close of the taxable year described in section 855) is greater than the qualified short-term gain of the company for such taxable year, the portion of each distribution which shall be a short-term capital gain dividend shall be only that portion of the amounts so designated which such qualified short-term gain bears to the aggregate amount so designated.

''(D) QUALIFIED SHORT-TERM GAIN.—For purposes of subparagraph (C), the term 'qualified short-term gain' means the excess of the net short-term capital gain of the regulated investment company for the taxable year over the net long-term capital loss (if any) of such company for such taxable year. For purposes of this subparagraph—

''(i) the net short-term capital gain of the regulated investment company shall be computed by treating any short-term capital gain dividend includible in gross income with respect to stock of another regulated investment company as a short-term capital gain, and

''(ii) the excess of the net short-term capital gain for a taxable year over the net long-term capital loss for a taxable year (to which an election under section 4982(e)(4) does not apply) shall be determined without regard to any net capital loss or net short-term capital loss attributable to transactions after October 31 of such year, and any such net capital loss or net short-term capital loss shall be treated as arising on the 1st day of the next taxable year.

To the extent provided in regulations, clause (ii) shall apply also for purposes of computing the taxable income of the regulated investment company.''

(2) FOREIGN CORPORATIONS.—Section 881 (relating to tax on income of foreign corporations not connected with United States business) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

''(e) TAX NOT TO APPLY TO CERTAIN DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

''(1) INTEREST-RELATED DIVIDENDS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no tax shall be imposed under paragraph (1) of subsection (a) on any interest-related dividend (as defined in section 871(k)(1)) received from a regulated investment company.

''(B) EXCEPTION.—Subparagraph (A) shall not apply—

''(i) to any dividend referred to in section 871(k)(1)(B), and

''(ii) to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company from a person who is a related person (within the meaning of section 864(d)(4)) with respect to such controlled foreign corporation.

''(C) TREATMENT OF DIVIDENDS RECEIVED BY CONTROLLED FOREIGN CORPORATIONS.—The rules of subsection (c)(5)(A) shall apply to any interest-related dividend received by a controlled foreign corporation (within the meaning of section 957(a)) to the extent such dividend is attributable to interest received by the regulated investment company which is described in clause (ii) of section 871(k)(1)(E) (and not described in clause (i) or (iii) of such section).

''(2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—No tax shall be imposed under paragraph (1) of subsection (a) on any short-term capital gain dividend (as defined in section 871(k)(2)) received from a regulated investment company.''

(3) WITHHOLDING TAXES.—

(A) Section 1441(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

''(12) CERTAIN DIVIDENDS RECEIVED FROM REGULATED INVESTMENT COMPANIES.—

''(A) IN GENERAL.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(k).

''(B) SPECIAL RULE.—For purposes of subparagraph (A), clause (i) of section 871(k)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause. A similar rule shall apply with respect to the exception contained in section 871(k)(2)(B).''

(B) Section 1442(a) (relating to withholding of tax on foreign corporations) is amended—

(i) by striking ''and the reference in section 1441(c)(10)'' and inserting ''the reference in section 1441(c)(10)'', and

(ii) by inserting before the period at the end the following: '', and the references in section 1441(c)(12) to sections 871(a) and 871(k) shall be treated as referring to sections 881(a) and 881(e) (except that for purposes of applying subparagraph (A) of section 1441(c)(12), as so modified, clause (ii) of section 881(e)(1)(B) shall not apply to any dividend unless the regulated investment company knows that such dividend is a dividend referred to in such clause)''.

(b) ESTATE TAX TREATMENT OF INTEREST IN CERTAIN REGULATED INVESTMENT COMPANIES.—Section 2105 (relating to property without the United States for estate tax purposes) is amended by adding at the end the following new subsection:

''(d) STOCK IN A RIC.—

''(1) IN GENERAL.—For purposes of this subchapter, stock in a regulated investment company (as defined in section 851) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States in the proportion that, at the end of the quarter of such investment company's taxable year immediately preceding a decedent's date of death (or at such other time as the Secretary may designate in regulations), the assets of the investment company that were qualifying assets with respect to the decedent bore to the total assets of the investment company.

''(2) QUALIFYING ASSETS.—For purposes of this subsection, qualifying assets with respect to a decedent are assets that, if owned directly by the decedent, would have been—

''(A) amounts, deposits, or debt obligations described in subsection (b) of this section,

''(B) debt obligations described in the last sentence of section 2104(c), or

''(C) other property not within the United States.''

(c) TREATMENT OF REGULATED INVESTMENT COMPANIES UNDER SECTION 897.—

(1) Paragraph (1) of section 897(h) is amended by striking ''REIT'' each place it appears and inserting ''qualified investment entity''.

(2) Paragraphs (2) and (3) of section 897(h) are amended to read as follows:

''(2) SALE OF STOCK IN DOMESTICALLY CONTROLLED ENTITY NOT TAXED.—The term 'United States real property interest' does not include any interest in a domestically controlled qualified investment entity.

''(3) DISTRIBUTIONS BY DOMESTICALLY CONTROLLED QUALIFIED INVESTMENT ENTITIES.—In the case of a domestically controlled qualified investment entity, rules similar to the rules of subsection (d) shall apply to the foreign ownership percentage of any gain.''

(3) Subparagraphs (A) and (B) of section 897(h)(4) are amended to read as follows:

''(A) QUALIFIED INVESTMENT ENTITY.—The term 'qualified investment entity' means any real estate investment trust and any regulated investment company.

''(B) DOMESTICALLY CONTROLLED.—The term 'domestically controlled qualified investment entity' means any qualified investment entity in which at all times during the testing period less than 50 percent in value of the stock was held directly or indirectly by foreign persons.''

(4) Subparagraphs (C) and (D) of section 897(h)(4) are each amended by striking ''REIT'' and inserting ''qualified investment entity''.

(5) The subsection heading for subsection (h) of section 897 is amended by striking ''REITS'' and inserting ''CERTAIN INVESTMENT ENTITIES''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to dividends with respect to taxable years of regulated investment companies beginning after the date of the enactment of this Act.

(2) ESTATE TAX TREATMENT.—The amendment made by subsection (b) shall apply to estates of decedents dying after the date of the enactment of this Act.

(3) CERTAIN OTHER PROVISIONS.—The amendments made by subsection (c) (other than paragraph (1) thereof) shall take effect on the date of the enactment of this Act.

SEC. 306. REGULATORY AUTHORITY TO EXCLUDE CERTAIN PRELIMINARY AGREEMENTS FROM DEFINITION OF INTANGIBLE PROPERTY.

(a) IN GENERAL.—Section 936(h)(3)(B) (defining intangible property) is amended by adding at the end the following new sentence: ''The Secretary shall by regulation provide that such term shall not include any preliminary agreement which is not legally enforceable.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 307. AIRLINE MILEAGE AWARDS TO CERTAIN FOREIGN PERSONS.

(a) IN GENERAL.—The last sentence of section 4261(e)(3)(C) (relating to regulations) is amended by inserting ''and mileage awards which are issued to individuals whose mailing addresses on record with the person providing the right to air transportation are outside the United States'' before the period at the end thereof.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid, and benefits provided, after December 31, 1997.

SEC. 308. REPEAL OF REDUCTION OF SUBPART F INCOME OF EXPORT TRADE CORPORATIONS.

(a) IN GENERAL.—Subpart G of part III of subchapter N of chapter 1 (relating to export trade corporations) is repealed.

(b) TREATMENT OF CERTAIN ACTUAL DISTRIBUTIONS.—

(1) IN GENERAL.—For purposes of applying sections 959 and 960(b) of the Internal Revenue Code of 1986, in the case of any actual distribution of export trade income made after December 31, 1986, by an export trade corporation (or former export trade corporation that was an export trade corporation on December 31, 1986), notwithstanding any other provision of chapter 1 of such Code, the earnings and profits attributable to amounts which have been included in the gross income of a United States shareholder under section 951(a) of such Code shall be treated as including an amount equal to the amount of export trade income that was included in gross income as a dividend. If a distribution is excluded from gross income by application of this subsection, the amount of such distribution shall be treated as an amount described in section 951(a)(2)(B) of such Code that reduces the amount described in section 951(a)(2)(A) of such Code for the taxable year.

(2) DEFINITIONS.—For purposes of this subsection—

(A) EXPORT TRADE CORPORATION.—The term ''export trade corporation'' has the meaning given such term by section 971(a) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (a)).

(B) EXPORT TRADE INCOME.—The term ''export trade income'' has the meaning given such term by section 971(b) of the Internal Revenue Code of 1986 (as so in effect).

(c) CONFORMING AMENDMENTS.—

(1) Section 865(e)(2)(A) is amended by striking the last sentence.

(2) Section 1297(b)(2)(D) is amended by striking ''or export trade income of an export trade corporation (as defined in section 971)''.

(3) The table of parts for part III of subchapter N of chapter 1 is amended by striking the item relating to subpart G.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 309. STUDY OF INTEREST ALLOCATION.

(a) STUDY.—The Secretary of the Treasury or the Secretary's delegate shall conduct a study of the rules under section 864(e) of the Internal Revenue Code of 1986 for allocating interest expense of members of an affiliated group. Such study shall include an analysis of the effect of such rules, including the effects such rules have on different industries.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study conducted under subsection (a), including recommendations (if any) for legislation.

SEC. 310. INTEREST PAYMENTS DEDUCTIBLE WHERE DISQUALIFIED GUARANTEE HAS ECONOMIC EFFECT.

(a) IN GENERAL.—Section 163(j)(6)(D)(ii) (relating to exceptions to disqualified guarantee) is amended by striking ''or'' at the end of subclause (I), by striking the period at the end of subclause (II) and inserting '', or'', and by inserting after subclause (II) the following new subclause:

''(III) if, in the case of a guarantee by a foreign person, the taxpayer establishes to the satisfaction of the Secretary that the loan giving rise to the indebtedness would have been made by the unrelated person without regard to the guarantee and that the guarantee resulted in a reduction in the interest payable on the loan.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to guarantees issued on and after the date of the enactment of this Act.

SEC. 311. MODIFICATIONS OF REPORTING REQUIREMENTS FOR CERTAIN FOREIGN OWNED CORPORATIONS.

(a) DE MINIMIS EXCEPTION.—Section 6038A(b) (relating to required information) is amended by adding at the end the following new flush sentence:

''The Secretary shall not require the reporting corporation to report any information with respect to any foreign person which is a related person if the aggregate value of the transactions between the corporation and the related person (and any person related to such person) during the taxable year does not exceed $5,000,000.''

(b) TIME FOR PROVIDING TRANSLATIONS OF SPECIFIC DOCUMENTS.—Notwithstanding Internal Revenue Service Regulation §1.6038A–3(f)(2), a taxpayer shall have at least 60 days to provide translations of specific documents it is requested to translate. Nothing in this subsection shall limit the right of a taxpayer to file a written request for an extension of time to comply with the request.

(c) EFFECTIVE DATES.—

(1) EXCEPTION.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1999.

(2) TRANSLATIONS.—Subsection (b) shall apply to requests made by the Internal Revenue Service after December 31, 1999.

By Mr. MACK (for himself, Mrs. FEINSTEIN, Mr. MURKOWSKI, Mr. BREAUX, Mr. GRAMM, Mr. ROBB, Mr. CHAFEE, Mr. GRAHAM, Mr. BRYAN, Mr. TORRICELLI, Mr. WARNER, Mr. THURMOND, Mr. GRAMS, Mr. KYL, Mr. HELMS, Mr. HUTCHINSON, Mr. LUGAR, and Mr. COCHRAN):

S. 1165. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

DEFENSE JOBS AND TRADE PROMOTION ACT OF 1999

Mr. MACK. Mr. President, I rise to introduce the Defense Jobs and Trade Promotion Act of 1999. This bill, cosponsored by Senator Feinstein and 16 of our colleagues, will eliminate a provision of tax law which discriminates against United States exporters of defense products.

Other nations have systems of taxation which rely less on corporate income taxes and more on value-added taxes. By rebating the value-added taxes for products that are exported, these nations lower the costs of their exports and provide their companies a competitive advantage that is not based on quality, ingenuity, or resources but rather on tax policy.

In an attempt to level the playing field, our tax code allows U.S. companies to establish Foreign Sales Corporations (FSCs) through which U.S.-manufactured products may be exported. A portion of the profits from FSC sales are exempted from corporate income taxes, to mitigate the advantage that other countries give their exporters through value-added tax rebates.

But the tax benefits of a FSC are cut in half for defense exporters. This 50% limitation is the result of a compromise enacted 23 years ago as part of

the predecessor to the FSC provisions. This compromise was not based on policy considerations, but instead merely split the difference between members who believed that the U.S. defense industry was so dominant in world markets that the foreign tax advantages were inconsequential, and members who believed that all U.S. exporters should be treated equally.

Today, U.S. defense manufacturers face intense competition from foreign businesses. With the sharp decline in the defense budget over the past decade, exports of defense products play a prominent role in maintaining a viable U.S. defense industrial base. It makes no sense to allow differences in international tax systems to stand as an obstacle to exports of U.S. defense products. We must level the international playing field for U.S. defense product manufacturers.

The fifty percent exclusion for sales of defense products makes even less sense when one considers that the sale of every defense product to a foreign government requires the determination of both the President and the Congress that the sale will strengthen the security of the United States and promote world peace. This is more than a matter of fair treatment for all U.S. exporters. National security is enhanced when our allies use U.S.-manufactured military equipment, because of its compatibility with equipment used by our armed forces.

The Department of Defense supports repeal of this provision. In an August 26, 1998 letter, Deputy Secretary of Defense John Hamre wrote Treasury Secretary Rubin about the FSC. Hamre wrote, ''The Department of Defense (DoD) supports extending the full benefits of the FSC exemption to defense exporters * * * [P]utting defense and non-defense companies on the same footing would encourage defense exports that would promote standardization and interoperability of equipment among our allies. It also could result in a decrease in the cost of defense products to the Department of Defense.''

The bill we are introducing today supports the DoD recommendation. It repeals the provision of the Foreign Sales Corporation laws that discriminates against U.S. defense product manufacturers, enhancing both the competitiveness of U.S. companies in world markets and our national security.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Defense Jobs and Trade Promotion Act of 1999''.

SEC. 2. REPEAL OF LIMITATION ON RECEIPTS ATTRIBUTABLE TO MILITARY PROPERTY WHICH MAY BE TREATED AS EXEMPT FOREIGN TRADE INCOME.

(a) IN GENERAL.—Subsection (a) of section 923 of the Internal Revenue Code of 1986 (defining exempt foreign trade income) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. NICKLES:

S. 1166. A bill to amend the Internal Revenue Code of 1986 to clarify that natural gas gathering lines are 7-year property for purposes of depreciation; to the Committee on Finance.

NATURAL GAS CLASSIFICATION LEGISLATION

Mr. NICKLES. Mr. President, today I have introduced legislation to clarify the proper depreciation of natural gas gathering lines. While depreciation is an arcane and technical area of the tax laws, continued uncertainty regarding the proper depreciation of these assets is having real and adverse impacts on members of the natural gas industry.

The purpose of this bill is quite simple—to clarify that natural gas gathering lines are assets that are properly depreciated over seven years. The legislation would codify the seven-year treatment of these assets as well as providing a sufficient definition for the term ''natural gas gathering line'' to distinguish these lines from transmission pipelines for depreciation purposes.

I believe that these assets should currently be depreciated over seven years under existing law, and that this is the long standing practice of members of the industry. However, it has come to my attention that the Internal Revenue Service has been asserting both on audits and in litigation that seven-year depreciation is available only for gathering assets owned by producers. The IRS has asserted that all other gathering equipment is to be depreciated as transmission pipelines over a fifteen-year period. This confounding position ignores not only the plain language of the asset class guidelines governing depreciation, but would result in disparate treatment of the same assets based upon ownership for no discernible policy reason. Moreover, this position ignores the fundamental distinction between gathering and transmission of natural gas long enshrined in energy regulation and recognized by the Federal Energy Regulatory Commission as well as other state and federal regulatory bodies.

Nonetheless, the IRS' position on this issue has resulted in the past in a division of authority among the lower courts. Although the United States Court of Appeals for the Tenth Circuit recently held that the seven-year cost recovery period was properly applied to natural gas gathering systems under existing law, this legislation is needed to provide certainty and uniformity regarding the proper depreciation of these assets throughout the country. With extensive gathering systems totaling many thousands of miles, we cannot afford to allow the proper depreciation of these substantial investments to remain subjects of dispute. I urge my fellow Senators to join me in securing the adoption of this important legislation.

By Mr. MCCAIN:

S. 1168. A bill to eliminate the social security earnings test for individuals who have attained retirement age, to protect and preserve the social security trust funds, and for other purposes; to the Committee on Finance.

PROTECT SOCIAL SECURITY NOW LEGISLATION

Mr. MCCAIN: Mr. President, today I rise to introduce legislation which will give older Americans the freedom to work and protect the Social Security system by taking it off budget, putting it in the black, and keeping it out of the hands of politicians. Our seniors and all working Americans deserve nothing less.

The promise of Social Security is sacred and must not be broken. Millions of Americans count on Social Security to provide the bulk of their retirement income, because that is what the system has promised them. Allowing the federal government to continue spending the tax dollars in the Social Security Trust Fund on more government threatens the financial security of our nation's retirement system.

The legislation I am introducing today will finally stop the government from stealing money from Social Security. It will lock up the Trust Fund and shore it up with the excess taxes collected by the federal government. It will guarantee that today's seniors who have worked and invested in the Social Security system will receive the benefits they were promised, without placing an unfair burden on today's workers.

The legislation does three simple, but very important things.

First, it repeals the burdensome and unfair Social Security earnings test that penalizes Americans between the ages of 65 and 70 for working and remaining productive after retirement. Under the current law, a senior citizen loses $1 of Social Security benefits for every $3 earned over the established limit, which is $15,500 in 1999.

Because of this cap on earnings, our senior citizens are burdened with a 33.3 percent tax on their Social Security benefits. When this is combined with Federal, State, local and other Social Security taxes on earned income, it amounts to an outrageous 55 to 65 percent tax bite on their total income, and sometimes it can be even higher. An individual who is struggling to make ends meet by holding a job where they earn just $15,500 a year should not be faced with an effective marginal tax rate which exceeds 55 percent.

What is most disturbing about the earnings test is the tremendous burden it places upon low-income senior citizens. Many older Americans need to

work in order to cover their basic expenses: food, housing and health care. These lower-income seniors are hit hardest by the earnings test, while most wealthy seniors escape unscathed. This is because supplemental ''unearned'' income from stocks, investments and savings is not affected by the earnings test.

For too long, many have given lip service to eliminating the earnings test, but to no avail. It is time that we finally eliminate this ridiculous policy. In his State of the Union speech, President Clinton indicated that he may finally be ready to repeal the unfair Social Security earnings test, as originally promised during his 1992 campaign. However, the President did not include repeal of the earnings test in his budget proposal for 2000.

Hard-working senior citizens who need to work to help pay for their food, rent, prescription drugs, and daily living expenses are tired of empty promises. They are tired of being penalized for working. Repealing the unfair earnings test, as proposed in this legislation, is the right thing to do.

Seond, the bill protects the money in the Social Security Trust Funds by taking Social Security ''off budget'' and keeping this money out of the hands of politicians. This provision is similar to other ''lock box'' proposals, except that it eliminates all the loopholes and exceptions, and truly locks up the money.

I support and applaud the efforts of my Republican colleagues to move forward on the Social Security Lock Box legislation that has been delayed by members of the other party. However, I am concerned that it contains loopholes which would allow Social Security funds to be spent on items other than retirement benefits for seniors. It includes exceptions for emergencies, including economic recession, and allows the surpluses to be used to reduce the public debt. While I understand the intent of these provisions, I believe that we must stop making exceptions and lock up Social Security funds for Social Security purposes only.

For too long, Social Security funds have been used to pay for existing federal programs, create new government programs, and to mask our nation's deficit. We must stop using Social Security to fund general government activities. We must save Social Security to pay retirement benefits to hard-working Americans, as promised in the law.

The legislation I am introducing puts the Social Security trust fund surpluses safely away in a ''lock box'' without holes, so that neither we nor our successors can spend the people's retirement money on anything other than their retirement.

Finally, the legislation requires that 62 percent of the non-Social Security budget surpluses from fiscal year 2001 through 2009 be transferred into the Social Security Trust Funds to strengthen and extend the solvency of the system. This amounts to $514 billion, based on current estimates of the non-Social Security surplus, which would shore up the system and ensure the availability of benefits for today's seniors and those working and paying into the system today.

Locking up the Social Security Trust Fund and shoring up the fund with $514 billion in new money will extend the solvency of the system until about 2057, more than 20 years beyond the date when the system is currently expected to be bankrupt. This bill will provide senior citizens with the peace of mind that their Social Security checks will continue arriving each and every month. It will provide time for the Administration, the Congress, and the American people to develop and agree upon a structural reform plan which will save Social Security for future generations.

Mr. President, I would like to note that the National Committee to Preserve Social Security and Medicare has reviewed this legislation and has provided a letter in support of it that I would like to insert in the RECORD at this point.

Mr. President, this is legislation that will truly preserve and protect Social Security for the future, and it will remove the unfair tax on working seniors. I urge my colleagues to support the bill and I intend to work for its passage this Congress.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ELIMINATION OF SOCIAL SECURITY EARNINGS TEST

SEC. 101. SHORT TITLE.

This title may be cited as the ''Older Americans Freedom to Work Act''.

SEC. 102. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) IN GENERAL.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(1) in subsection (c)(1), by striking ''the age of seventy'' and inserting ''retirement age (as defined in section 216(l))'';

(2) in paragraphs (1)(A) and (2) of subsection (d), by striking ''the age of seventy'' each place it appears and inserting ''retirement age (as defined in section 216(l))'';

(3) in subsection (f)(1)(B), by striking ''was age seventy or over'' and inserting ''was at or above retirement age (as defined in section 216(l))'';

(4) in subsection (f)(3)—

(A) by striking ''33⅓ percent'' and all that follows through ''any other individual,'' and inserting ''50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8),''; and

(B) by striking ''age 70'' and inserting ''retirement age (as defined in section 216(l))'';

(5) in subsection (h)(1)(A), by striking ''age 70'' each place it appears and inserting ''retirement age (as defined in section 216(l))''; and

(6) in subsection (j)—

(A) in the heading, by striking ''Age Seventy'' and inserting ''Retirement Age''; and

(B) by striking ''seventy years of age'' and inserting ''having attained retirement age (as defined in section 216(l))''.

(b) CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.—

(1) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act (42 U.S.C. 403(f)(8)(A)) is amended by striking ''the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable'' and inserting ''a new exempt amount which shall be applicable''.

(2) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of the Social Security Act (42 U.S.C. 403(f)(8)(B)) is amended—

(A) in the matter preceding clause (i), by striking ''Except'' and all that follows through ''whichever'' and inserting ''The exempt amount which is applicable for each month of a particular taxable year shall be whichever'';

(B) in clauses (i) and (ii), by striking ''corresponding'' each place it appears; and

(C) in the last sentence, by striking ''an exempt amount'' and inserting ''the exempt amount''.

(3) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of the Social Security Act (42 U.S.C. (f)(8)(D)) is repealed.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act (42 U.S.C. 403) is amended—

(A) in subsection (c), in the last sentence, by striking ''nor shall any deduction'' and all that follows and inserting ''nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60.''; and

(B) in subsection (f)(1), by striking clause (D) and inserting the following: ''(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60,''.

(2) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE ON ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of the Social Security Act (42 U.S.C. 402(w)(2)(B)(ii)) is amended—

(A) by striking ''either''; and

(B) by striking ''or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit''.

(3) PROVISIONS RELATING TO EARNINGS TAKEN INTO ACCOUNT IN DETERMINING SUBSTANTIAL GAINFUL ACTIVITY OF BLIND INDIVIDUALS.—The second sentence of section 223(d)(4)(A) of the Social Security Act (42 U.S.C. 423(d)(4)(A)) is amended by striking ''if section 102 of the Senior Citizens' Right to Work Act of 1996 had not been enacted'' and inserting the following: ''if the amendments to section 203 made by section 102 of the Senior Citizens' Right to Work Act of 1996 and by the Senior Citizens' Freedom to Work Act of 1999 had not been enacted''.

(d) EFFECTIVE DATE.—The amendments and repeals made by this section shall apply with respect to taxable years ending after December 31, 1998.

TITLE II—PROTECTING AND PRESERVING THE SOCIAL SECURITY TRUST FUNDS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Protecting and Preserving the Social Security Trust Funds Act''.

SEC. 202. FINDINGS.

Congress finds that—

(1) the $69,246,000,000 unified budget surplus achieved in fiscal year 1998 was entirely due to surpluses generated by the social security trust funds and the cumulative unified budget surpluses projected for subsequent fiscal years are primarily due to surpluses generated by the social security trust funds;

(2) Congress and the President should not use the social security trust funds surpluses to balance the budget or fund existing or new non-social security programs;

(3) all surpluses generated by the social security trust funds must go towards saving and strengthening the social security system; and

(4) at least 62 percent of the on-budget (non-social security) surplus should be reserved and applied to the social security trust funds.

SEC. 203. PROTECTION OF THE SOCIAL SECURITY TRUST FUNDS.

(a) PROTECTION BY CONGRESS.—

(1) REAFFIRMATION OF SUPPORT.—Congress reaffirms its support for the provisions of section 13301 of the Budget Enforcement Act of 1990 that provides that the receipts and disbursements of the social security trust funds shall not be counted for the purposes of the budget submitted by the President, the congressional budget, or the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) PROTECTION OF SOCIAL SECURITY BENEFITS.—Balances in the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall be used solely for paying social security benefit payments as promised to be paid by law.

(b) POINTS OF ORDER.—Section 301 of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''(j) SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that violates section 13301 of the Budget Enforcement Act of 1990.

''(k) SOCIAL SECURITY SURPLUS PROTECTION POINT OF ORDER.—It shall not be in order in the Senate to consider a concurrent resolution on the budget, an amendment thereto, or a conference report thereon that would cause or increase an on-budget deficit for any fiscal year.

''(l) SUBSEQUENT LEGISLATION.—

''(1) IN GENERAL.—It shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

''(A) the enactment of the bill or resolution as reported;

''(B) the adoption and enactment of that amendment; or

''(C) the enactment of the bill or resolution in the form recommended in the conference report;

would cause or increase an on-budget deficit for any fiscal year.

''(2) EXCEPTION TO POINT OF ORDER.—This subsection shall not apply to social security reform legislation that would protect the social security system from insolvency and preserve benefits as promised to beneficiaries.''.

(c) SUPERMAJORITY WAIVER AND APPEAL.—Subsections (c)(1) and (d)(2) of section 904 of the Congressional Budget Act of 1974 are amended by striking ''305(b)(2),'' and inserting ''301(j), 301(k), 301(l), 305(b)(2)''.

SEC. 204. SEPARATE BUDGET FOR SOCIAL SECURITY.

(a) EXCLUSION.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be excluded from—

(1) any official documents by Federal agencies regarding the surplus or deficit totals of the budget of the Federal Government as submitted by the President or of the surplus or deficit totals of the congressional budget; and

(2) any description or reference in any official publication or material issued by any other agency or instrumentality of the Federal Government.

(b) SEPARATE BUDGET.—The outlays and receipts of the social security program under title II of the Social Security Act, including the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund and the related provisions of the Internal Revenue Code of 1986, shall be submitted as a separate budget.

SEC. 205. PRESIDENT'S BUDGET.

Section 1105(f) of title 31, United States Code, is amended by striking ''in a manner consistent'' and inserting ''in compliance''.

TITLE III—SAVING SOCIAL SECURITY FIRST

SEC. 301. DESIGNATION OF ON-BUDGET SURPLUS.

(a) IN GENERAL.—Notwithstanding any other provision of law, not less than the amount referred to in subsection (b) for a fiscal year shall be reserved for and applied to the social security trust funds for that fiscal year in addition to the Social Security Trust Fund surpluses.

(b) AMOUNT RESERVED.—The amount referred to in this subsection is—

(1) for fiscal year 2001, $6,820,000,000;
(2) for fiscal year 2002, $36,580,000,000;
(3) for fiscal year 2003, $31,620,000,000;
(4) for fiscal year 2004, $42,160,000,000;
(5) for fiscal year 2005, $48,980,000,000;
(6) for fiscal year 2006, $71,920,000,000;
(7) for fiscal year 2007, $83,080,000,000;
(8) for fiscal year 2008, $90,520,000,000; and
(9) for fiscal year 2009, $102,300,000,000.

SEC. 302. SENSE OF THE SENATE ON DEDICATING ADDITIONAL SURPLUS AMOUNTS.

It is the sense of the Senate if the budget surplus in future years is greater than the currently projected surplus, serious consideration should be given to directing more of the surplus to strengthening the social security trust funds.

NATIONAL COMMITTEE TO PRESERVE
SOCIAL SECURITY AND MEDICARE,
Washington, DC, May 26, 1999.

Hon. JOHN MCCAIN,
Russell Building, U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the approximately five million members and supporters of the National Committee, I commend your leadership on the issue of protecting the Social Security trust funds and eliminating the Social Security earnings test.

The National Committee's members earnestly believe in the future of the Social Security system and its critical importance to America's hard working families.

Your legislation would not only safe-guard the Social Security surpluses and reaffirm Social Security's off-budget status, but would also strengthen the program's solvency by committing 62 percent of projected off-budget surpluses to Social Security. Using the off-budget surpluses to fortify Social Security is fiscally responsible and will help our nation better meet the challenge of the baby-boom generation's retirement.

We also commend you for your long commitment to eliminating the earnings test for individuals who have reached normal retirement age. Encouraging seniors to remain in the work force as long as they are willing and able to work strengthens their ability to remain financially independent throughout their retirement years.

Sincerely,

MAX RICHTMAN,
Executive Vice President.

By Mr. MCCAIN (for himself, Mr. COCHRAN, and Mr. BURNS):

S. 1169. A bill to require that certain multilateral development banks and other lending institutions implement independent third party procurement monitoring, and for other purposes; to the Committee on Foreign Relations.

COMPETITION IN FOREIGN COMMERCE ACT OF 1999

Mr. MCCAIN. Mr. President, I along with Senators COCHRAN and BURNS are proud to introduce the Fair Competition in Foreign Commerce Act of 1999, to address the serious problem of waste, fraud and abuse resulting from bribery and corruption in international development projects. This legislation will set conditions for U.S. funding through multilateral development banks. These conditions will require the country receiving aid to adopt substantive procurement reforms and independent third-party procurement monitoring of their international development projects.

During the cold war, banks and governments often looked the other way as pro-western leaders in developing countries treated national treasuries as their personal treasury troves. Today, we cannot afford to look the other way when we see bribery and corruption running rampant in other countries because these practices undermine our goals of promoting democracy and accountability, fostering economic development and trade liberalization, and achieving a level playing field throughout the world for American businesses.

The United States is increasingly called upon to lead multilateral efforts to provide much-needed economic assistance to developing nations. The American taxpayers make substantial contributions to the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

However, it is critical that we take steps to ensure that Americans' hard-earned tax dollars are being used appropriately. The Fair Competition in Foreign Commerce Act of 1999 is designed to decrease the stifling effects of bribery and corruption in international development contracts. By doing so, we will (1) enable U.S. businesses to become more competitive when bidding against foreign firms which secure government contracts through bribery and corruption; (2) encourage additional direct investment to developing nations, thus increasing

their economic growth, and (3) increase opportunities for U.S. businesses to export to these nations as their economies expand and mature.

Multilateral lending efforts are only effective in spurring economic development if the funds are used to further the intended development projects, not to line the pockets of foreign bureaucrats and their well-connected political allies.

When used for its intended purpose, foreign aid yields both short- and long-term benefits to U.S. businesses. Direct foreign aid assists developing nations to develop their infrastructure. A developed infrastructure is vital to creating and sustaining a modern dynamic economy. Robust new economies create new markets to which U.S. businesses can export their goods and services. Exports are key to the U.S. role in the constantly expanding and increasingly competitive global economy.

The current laws and procedures designed to detect and deter corruption after the fact are inadequate and meaningless. This bill seeks to ensure that U.S. taxpayers' hard-earned dollars contributed to international projects are used appropriately, by detecting and eliminating bribery and corruption before they can taint the integrity of international projects. Past experience illustrates that it is ineffective to attempt to reverse waste, fraud, and abuse in large-scale foreign infrastructure projects, once the abuse has already begun. Therefore, it is vital to detect the abuses before they occur.

The Fair Competition in Foreign Commerce Act of 1999 requires the United States Government, through its participation in multilateral lending institutions and in its disbursement of non-humanitarian foreign assistance funds, to: (1) require the recipient international financial institution to adopt an anti-corruption plan that requires the aid recipient to use independent third-party procurement monitoring services, at each stage of the procurement process to ensure openness and transparency in government procurements, and (2) require the recipient nation to institute specific strategies for minimizing corruption and maximizing transparency in procurements at each stage of the procurement process. The legislation directs the Secretary of the Treasury to instruct the United States Executive Directors of the various international institutions to use the voice and vote of the United States to prevent the lending institution from providing funds to nations which do not satisfy the procurement reforms criteria.

This Act has two important exceptions. First, it does not apply to assistance to meet urgent humanitarian needs such as providing food, medicine, disaster, and refugee relief. Second, it also permits the President to waive the funding restrictions with respect to a particular country, if making such funds available is important to the national security interest of the United States.

Independent third-party procurement monitoring is a system where an uninvolved entity conducts a program to eliminate bias, to promote transparency and open competition, and to minimize fraud and corruption, waste and inefficiency and other misuse of funds in international procurements. The system does this through an independent evaluation of the technical, financial, economic and legal aspects of each stage of a procurement, from the development and issuance of technical specifications, bidding documents, evaluation reports and contract preparation, to the delivery of goods and services. This monitoring takes place throughout the entire term of the international development project.

Mr. President, this system has worked for other governments. Procurement reforms and third-party procurement monitoring resulted in the governments of Kenya, Uganda, Colombia, and Guatemala experiencing significant cost savings in recent procurements. For instance, the Government of Guatemala experienced an overall savings of 48% when it adopted a third-party procurement monitoring system and other procurement reform measures in a recent contract for pharmaceuticals.

Mr. President, bribery and corruption have many victims. Bribery and corruption hamper vital U.S. interests. Both harm consumers, taxpayers, and honest traders who lose contracts, production, and profits because they refuse to offer bribes to secure foreign contracts.

Bribery and corruption have become a serious problem. A World Bank survey of 3,600 firms in 69 countries showed 40% of businesses paying bribes. More startling is that Germany still permits its companies to take a tax deduction for bribes. Commerce Secretary Daley summed up the serious impact of bribery and corruption upon American businesses ability to compete for foreign contracts in 1997:

> Since mid-1994, foreign firms have used bribery to win approximately 180 commercial contracts valued at nearly $80 billion. We estimate that over the past year, American companies have lost at least 50 of these contracts, valued at $15 billion. And since many of these contracts were for groundbreaking projects—the kind that produce exports for years to come—the ultimate cost could be much higher.

Since then American companies have continued to lose international development contracts because of unfair competition from businesses paying bribes. This terrible trend must be brought to a halt.

Exports will continue to play an increasing role in our economic expansion. We can ill afford to allow any artificial impediments to our ability to export. Bribery and corruption significantly hinder American businesses' ability to compete for lucrative overseas government contracts. American businesses are simply not competitive when bidding against foreign firms that have bribed government officials to secure overseas government contracts. Openness and fairness in government contracts will greatly enhance opportunities to compete in the rapidly expanding global economy. Exports equate to jobs. Jobs equate to more money in hard-working Americans' pockets. More money in Americans' pockets means more money for Americans to save and invest in their futures.

Bribery and corruption also harm the country receiving the aid because bribery and corruption often inflate the cost of international development projects. For example, state sponsorship of massive infrastructure projects that are deliberately beyond the required specification needed to meet the objective is a common example of the waste, fraud, and abuse inherent in corrupt procurement practices. Here, the cost of corruption is not the amount of the bribe itself, but the inefficient use of resources that the bribes encourage.

Bribery and corruption drive up costs. Companies are forced to increase prices to cover the cost of bribes they are forced to pay. A 2% bribe on a contract can raise costs by 15%. Over time, tax revenues will have to be raised or diverted from other more deserving projects to fund these excesses. Higher taxes and the inefficient use of resources both hinder growth.

The World Bank and the IMF both recognize the link between bribery and corruption, and decreased economic growth. Recent studies also indicate that high levels of corruption are associated with low levels of investment and growth. Furthermore, corruption lessens the effectiveness of industrial policies and encourages businesses to operate in the unofficial sector in violation of tax and regulatory laws. More important, corruption breeds corruption and discourages legitimate investment. In short, bribery and corruption create a ''lose-lose'' situation for the U.S. and developing nations.

The U.S. recognizes the damaging effects bribery and corruption have at home and abroad. The U.S. continues to combat foreign corruption, waste, and abuse on many fronts—from prohibiting U.S. firms from bribing foreign officials, to leading the anti-corruption efforts in the United Nations, the Organization of American States, and the Organization for Economic Cooperation and Development (''OECD''). The U.S. was the first country to enact legislation (the Foreign Corrupt Practices Act) to prohibit its nationals and corporations from bribing foreign public officials in international and business transactions.

However, we must do more. The Foreign Corrupt Practices Act prevents U.S. nationals and corporations from bribing foreign officials, but does nothing to prevent foreign nationals and corporations from bribing foreign officials to obtain foreign contracts. Valuable resources are often diverted or squandered because of corrupt officials or the use of non-transparent specifications, contract requirements and the

like in international procurements for goods and services. Such corrupt practices also minimize competition and prevent the recipient nation or agency from receiving the full value of the goods and services for which it bargained. In addition, despite the importance of international markets to U.S. goods and service providers, many U.S. companies refuse to participate in international procurements that may be corrupt.

This legislation is designed to provide a mechanism to ensure, to the extent possible, the integrity of U.S. contributions to multilateral lending institutions and other non-humanitarian U.S. foreign aid. Corrupt international procurements, often funded by these multilateral banks, weaken democratic institutions and undermine the very opportunities that multilateral lending institutions were founded to promote. This will encourage and support the development of transparent government procurement systems, which are vital for emerging democracies constructing the infrastructure that can sustain market economies.

Mr. President, on behalf of the millions of Americans who will benefit from increased opportunities for U.S. businesses to participate in the global economy, and the billions of people in developing nations throughout the world who are desperate for economic assistance, I urge my colleagues to support this legislation and demonstrate their continued commitment to the orderly evolution of the global economy and the efficient use of American economic assistance.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1169

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fair Competition in Foreign Commerce Act of 1999''.

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) The United States makes substantial contributions and provides significant funding for major international development projects through the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the African Development Fund, and other multilateral lending institutions.

(2) These international development projects are often plagued with fraud, corruption, waste, inefficiency, and misuse of funding.

(3) Fraud, corruption, waste, inefficiency, misuse, and abuse are major impediments to competition in foreign commerce throughout the world.

(4) Identifying these impediments after they occur is inadequate and meaningless.

(5) Detection of impediments before they occur helps to ensure that valuable United States resources contributed to important international development projects are used appropriately.

(6) Independent third-party procurement monitoring is an important tool for detecting and preventing such impediments.

(7) Third-party procurement monitoring includes evaluations of each stage of the procurement process and assures the openness and transparency of the process.

(8) Improving transparency and openness in the procurement process helps to minimize fraud, corruption, waste, inefficiency, and other misuse of funding, and promotes competition, thereby strengthening international trade and foreign commerce.

(b) PURPOSE.—The purpose of this Act is to build on the excellent progress associated with the Organization on Economic Development and Cooperation Agreement on Bribery and Corruption, by requiring the use of independent third-party procurement monitoring as part of the United States participation in multilateral development banks and other lending institutions and in the disbursement of nonhumanitarian foreign assistance funds.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—In this Act:

(1) APPROPRIATE COMMITTEES.—The term ''appropriate committees'' means the Committee on Commerce, Science, and Technology of the Senate and the Committee on Commerce of the House of Representatives.

(2) INDEPENDENT THIRD-PARTY PROCUREMENT MONITORING.—The term ''independent third-party procurement monitoring'' means a program to—

(A) eliminate bias,

(B) promote transparency and open competition, and

(C) minimize fraud, corruption, waste, inefficiency, and other misuse of funds,

in international procurement through independent evaluation of the technical, financial, economic, and legal aspects of the procurement process.

(3) INDEPENDENT.—The term ''independent'' means that the person monitoring the procurement process does not render any paid services to private industry and is neither owned nor controlled by any government or government agency.

(4) EACH STAGE OF PROCUREMENT.—The term ''each stage of procurement'' means the development and issuance of technical specifications, bidding documents, evaluation reports, contract preparation, and the delivery of goods and services.

(5) MULTILATERAL DEVELOPMENT BANKS AND OTHER LENDING INSTITUTIONS.—The term ''multilateral development banks and other lending institutions'' means the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, and the African Development Fund.

SEC. 4. REQUIREMENTS FOR FAIR COMPETITION IN FOREIGN COMMERCE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Treasury shall transmit to the President and to appropriate committees of Congress a strategic plan for requiring the use of independent third-party procurement monitoring and other international procurement reforms relating to the United States participation in multilateral development banks and other lending institutions.

(b) STRATEGIC PLAN.—The strategic plan shall include an instruction by the Secretary of the Treasury to the United States Executive Director of each multilateral development bank and lending institution to use the voice and vote of the United States to oppose the use of funds appropriated or made available by the United States for any non-humanitarian assistance, until—

(1) the recipient international financial institution has adopted an anticorruption plan that requires the use of independent third-party procurement monitoring services and ensures openness and transparency in government procurement; and

(2) the recipient country institutes specific strategies for minimizing corruption and maximizing transparency in each stage of the procurement process.

(c) ANNUAL REPORTS.—Not later than June 29 of each year, the Secretary of the Treasury shall report to Congress on the progress in implementing procurement reforms made by each multilateral development bank and lending institution and each country that received assistance from a multilateral development bank or lending institution during the preceding year.

(d) RESTRICTIONS ON ASSISTANCE.—Notwithstanding any other provision of law, no funds appropriated or made available for non-humanitarian foreign assistance programs, including the activities of the Agency for International Development, may be expended for those programs unless the recipient country, multilateral development bank or lending institution has demonstrated that—

(1) procurement practices are open, transparent, and free of corruption, fraud, inefficiency, and other misuse, and

(2) independent third-party procurement monitoring has been adopted and is being used by the recipient.

SEC. 5. EXCEPTIONS.

(a) NATIONAL SECURITY INTEREST.—Section 4 shall not apply with respect to a country if the President determines with such respect to such country that making funds available is important to the national security interest of the United States. Any such determination shall cease to be effective 6 months after being made unless the President determines that its continuation is important to the national security interest of the United States.

(b) OTHER EXCEPTIONS.—Section 4 shall not apply with respect to assistance to—

(1) meet urgent humanitarian needs (including providing food, medicine, disaster, and refugee relief);

(2) facilitate democratic political reform and rule of law activities;

(3) create private sector and nongovernmental organizations that are independent of government control; and

(4) facilitate development of a free market economic system.

By Mr. TORRICELLI:

S. 1170. A bill to provide demonstration grants to local educational agencies to enable the agencies to extend the length of the school year; to the Committee on Health, Education, Labor, and Pensions.

LEGISLATION TO PROVIDE DEMONSTRATION GRANTS TO LOCAL AGENCIES

● Mr. TORRICELLI. Mr. President, I rise today to introduce legislation authorizing funding for extended school day and extended school year programs across the country. The continuing gap between American students and those in other countries, combined with the growing needs of working and the growing popularity of extending both

the school day and the school year, have made this educational option a valuable one for many school districts.

Students in the United States currently attend school an average of only 180 days per year, compared to 220 days in Japan, and 222 days in both Korea and Taiwan. American students also receive fewer hours of formal instruction per year compared to their counterparts in Taiwan, France, and Germany. We cannot expect our students to remain competitive with those in other industrialized countries if they must learn the same amount of information in less time.

Our school calendar is based on a no longer relevant agricultural cycle that existed when most American families lived in rural areas and depended on their farms for survival. The long summer vacation allowed children to help their parents work in the fields. Today, summer is a time for vacations, summer camps, and part-time jobs. Young people can certainly learn a great deal at summer camp, and a job gives them maturity and confidence. However, more time in school would provide the same opportunities while helping students remain competitive with those in other countries. As we debate the need to bring in skilled workers from other countries, the need to improve our system of education has become increasingly important.

In 1994, the Commission on Time and Learning recommended keeping schools open longer in order to meet the needs of both children and communities, and the growing popularity of extended-day programs is significant. Between 1987 and 1993, the availability of extended-day programs in public elementary schools has almost doubled. While school systems have begun to respond to the demand for lengthening the school day, the need for more widespread implementation still exists. Extended-day programs are much more common in private schools than public schools, and only 18 percent of rural schools have reported an extended-day program.

This bill would authorize $25 million per year over the next five years for the Department of Education to administer a demonstration grant program. Local education agencies would then be able to conduct a variety of longer school day and school year programs, such as extending the school year, studying the feasibility of extending the school day, and implementing strategies to maximize the quality of extended core learning time.

The constant changes in technology, and greater international competition, have increased the pressure on American students to meet these challenges. Providing the funding for programs to lengthen the school day and school year would leave American students better prepared to meet the challenges facing them in the next century.●

By Mr. COVERDELL (for himself, Mrs. FEINSTEIN, Mr. DEWINE, Mr. HELMS, Mr. LOTT, Mr. TORRICELLI, Mr. CRAIG, Mr. GRAHAM, and Mr. REID):

S. 1171. A bill to block assets of narcotics traffickers who pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO BLOCK ASSETS OF NARCOTICS TRAFFICKERS

● Mr. COVERDELL. Mr. President, I am pleased to join my colleague from California, Senator FEINSTEIN, in introducing legislation that will intensify our fight against the terrible scourge of drugs. A version of this bill was originally introduced on March 2. Since then, we have conferred with various agencies, including the Department of the Treasury's Office of Foreign Assets Control, the Department of Justice, and the Office of National Drug Control Policy. All are supportive of this concept. The current bill includes some of their comments and suggestions.

Simply put, Mr. President, this legislation decertifies the drug kingpins by preventing them, and any of their associates or associated companies, from conducting business with the United States. The bill codifies and expands a 1995 Executive Order created under the International Emergency Economic Powers Act (IEEPA), which targeted Colombia drug traffickers. The bill expands the existing Executive Order to include other foreign drug traffickers considered a threat to our national security. The bill freezes the assets of the identified drug traffickers and their associates and prohibits these individuals and organizations from conducting any financial or commercial dealings with the United States.

In the case of the Cali cartel in Colombia, this tool was remarkably effective in weakening the drug kingpins. The United States targeted over 150 companies and nearly 300 individuals involved in the ownership and management of the Colombian drug cartels' non-narcotics business empire, everything from drugstores to poultry farms. Once labeled as drug-linked businesses, these companies found themselves financially isolated. Banks and legitimate companies chose not to do business with the blacklisted firms, cutting off key revenue flows to the cartels.

The goal is to isolate the leaders of the drug cartels and prevent them from doing business with the United States. Taking legitimate U.S. dollars out of drug dealers' pockets is a vital step in destroying their ability to traffick narcotics across our borders. This is a bold but necessary new tool to wage war against illegal drugs and to curb the increasing power of the drug cartels.●

By Mr. TORRICELLI:

S. 1173. A bill to provide for a teacher quality enhancement and incentive program; to the Committee on Health, Education, Labor, and Pensions.

TEACHER QUALITY ENHANCEMENT INCENTIVE ACT

● Mr. TORRICELLI. Mr. President, today I am introducing the Teacher Quality Enhancement and Incentive Act. I rise to focus the nation's attention on the potentially critical shortage of school teachers we will be facing in upcoming years. While K–12 enrollments are steadily increasing the teacher population is aging. There is a need, now more than ever, to attract competent, capable, and bright college graduates or mid-career professionals to the teaching profession.

The Department of Education projects that 2 million new teachers will have to be hired in the next decade. Shortage, if they occur, will most likely be felt in urban or rural regions of the country where working conditions may be difficult or compensation low. We cannot create a high quality learning environment for our students if they are forced into over-crowded classrooms with under-qualified instructors. If our students are to receive a high quality education and remain competitive in the global market we must attract talented and motivated people to the teaching profession in large numbers.

Law firms, technology firms, and many other industries typically offer signing bonuses in order to attract the best possible candidates to their organizations. Part of making the teaching profession competitive with the private sector is to match these institutional perks.

This bill would authorize $15 million per year over the next five years for the Department of Education to award grants to local educational agencies (LEAs) for the purpose of attracting highly qualified individuals to teaching. These grants will enable LEAs in high poverty and rural areas to award new teachers a $15,000 tax free salary bonus, spread over their first two years of employment, over and above their regular starting salary. These bonuses will attract teachers to districts where they are most needed.

On an annual basis, LEAs will use competitive criteria to select the best and brightest teaching candidates based on objective measures, including test scores, grade point average or class rank and such other criteria as each LEA may determine. The number of bonuses awarded depends upon the number of students enrolled in the LEA.

Teachers who receive the bonus will be required to teach in low income or rural areas for a minimum of four years. If they fail to work the four year minimum they will be required to repay the bonus they received.

By making this funding available. America's schools will better be able to compete with businesses for the best and brightest college graduates. These new teachers will, in turn, produce better students and lower the risk of a possible teacher shortage. With arguably the most successful economy of

any nation in history, we should be doing more to make teaching an attractive career alternative for qualified and motivated individuals. The Teacher Quality Enhancement and Incentive Act will be an excellent first step.●

By Ms. COLLINS:

S. 1175. A bill to amend title 49, United States Code, to require that fuel economy labels for new automobiles include air pollution information that consumers can use to help communities meet Federal air quality standards; to the Committee on Commerce, Science, and Transportation.

AUTOMOBILE EMISSIONS CONSUMER INFORMATION ACT OF 1999

Ms. COLLINS. Mr. President, I rise today to introduce a bill that will give consumers important information many will want to factor into their decisions when they shop for a new vehicle. My legislation will ensure that consumers have the information they need to compare the pollution emissions of new vehicles. The Automobile Emissions Consumer Information Act of 1999 simply takes data already collected by the Environmental Protection Agency and requires that this information be presented to consumers in an understandable format as they purchase cars. This proposal, if enacted into law, will benefit both the consumer and the environment.

This measure is modeled after existing requirements for gas mileage information. It ensures that emissions information will be on the window stickers of new cars just as fuel efficiency information is currently displayed. Additionally, emissions information for all new vehicles will be published by the EPA in an easy-to-understand booklet for consumers.

This information is already collected by the EPA, but is disseminated in an extremely burdensome way. First, consumers must pro-actively request emissions information. Then, after securing the relevant EPA documents, the consumer is presented with an overload of complicated data in spreadsheet form. Furthermore, the EPA organizes emissions data by engine type and not by the more commonly compared model and make categories.

Let me refer to a page from the EPA's 1999 Annual Certification Test Results of emission standards. As my colleagues can see, it is an extraordinarily difficult document to read and interpret. The complicated nature of this document becomes increasingly apparent when this table is compared with the simplified information currently provided to consumers about fuel mileage. The federal government should be aiding consumers who want to consider emissions in choosing which vehicle to purchase. This bill will do just that.

Mr. President, this is not a new idea. The Clean Air Act Amendments of 1970 mandated that the EPA make available to the public the data collected from manufacturers on emissions. The 1970 Amendments further required, ''Such results shall be described in such non-technical manner as will responsibly disclose to prospective ultimate purchasers of new motor vehicles and new motor vehicle engines the comparative performance of the vehicles and engines tested.'' Mr. President, clearly, the EPA is not abiding by the letter and spirit of the 1970 law.

It is important to note that the Automobile Emissions Consumer Information Act of 1999 does not require either motor vehicle manufacturers or the EPA to conduct new tests. Manufacturers must already test emissions of all new vehicles and submit the test results to the EPA. Unfortunately, the gathering of this information does not translate into useful information for consumers.

While all vehicles must meet the Federal standards, some vehicles exceed the standards. Consumers who are concerned about vehicle emissions deserve to be able to exercise their right to buy from manufacturers who take extra steps in reducing emissions, if they so chose.

Representative BRIAN BILBRAY of California is introducing this bill in the House of Representatives today. I greatly appreciate his leadership on this issue and his bringing this common-sense proposal to my attention. He is clearly committed to protecting both consumers and the environment.

Mr. President, I urge my colleagues to join me in enacting the Automobile Emissions Consumer Information Act, and I ask unanimous consent that one page from the EPA's 1999 Annual Certification Test Results of emissions standards be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CERTIFICATION AND FUEL ECONOMY INFORMATION SYSTEM (CFEIS), 1999 ANNUAL CERTIFICATION TEST RESULTS, ALL SALES AREA—LIGHT DUTY VEHICLES AND LIGHT DUTY TRUCKS

[Manufacturer: 20; DaimlerChrysler; Engine Family/Test Group: XCRXA0318H11; Engine System: 1; Evaporative/Refueling Family: RXE0174G4H; Evap System: 1]

Division	Car line tested	Emission control	Eng. disp	Trn	ETW	HP	Axle Rat	Tst Prc	Fl Ty	SA Cd	UL	Emission	Cert level	Std	Tier	DF
Dodge	Ram 1500, Pickup 4WD	20/99///	5.2	L4	5500	14.8	3.55	34	6	CA	12	HC–TEV–3D	.7	2.5	T1	.05+
Do	Ram 1500, Pickup 2WD	20/99///	5.2	L4	5500	13.9	3.55	35	23	CA	50	CO	2.0	4.4	T1	1.156*
								35	23	CA	50	HC–NM	.15	0.32	T1	1.055*
								35	23	CA	50	NOX	.4	0.7	T1	1.28*
								35	23	CA	120	CO	2.4	6.4	T1	1.393*
								35	23	CA	120	HC–NM	.16	0.46	T1	1.139*
								35	23	CA	120	NOX	.6	0.98	T1	1.706*
Do	Ram 1500, Pickup 4WD	20/99///	5.2	L4	5500	16.2	3.55	35	23	CA	50	CO	1.9	4.4	T1	1.156*
								35	23	CA	50	HC–NM	.17	0.32	T1	1.055*
								35	23	CA	50	NOX	.2	0.7	T1	1.28*
								35	23	CA	120	CO	2.3	6.4	T1	1.393*
								35	23	CA	120	HC–NM	.18	0.46	T1	1.139*
								35	23	CA	120	NOX	.3	0.98	T1	1.706*
Do	do	20/99///	5.2	L4	5500		3.55	11	24	CA	50	CO–COLD	5.6	12.5	N/A	1.156*

By Mr. ROBB (for himself, Mr. WARNER, and Mr. SARBANES):

S. 1176. A bill to provide for greater access to child care services for Federal employees; to the Committee on Governmental Affairs.

CHILD CARE SERVICES FOR FEDERAL EMPLOYEES

Mr. ROBB. Mr. President, today I'm introducing legislation to assist federal workers seeking affordable care for their young children.

Many federal facilities provide child care centers for their employees' use. But for many lower and middle income employees, these services are simply unaffordable—their costs put them beyond the reach of these families. The bill I am introducing today, along with Senators WARNER and SARBANES, will make this option affordable for these employees.

This legislation authorizes federal agencies to use appropriated funds to help lower and middle income federal workers better afford the child care services they need. Let me emphasize that these funds have already been appropriated, meaning no new government spending is involved. This is a modest, cost-effective solution that will certainly ease the minds of parents who are understandably concerned about their child care needs.

Our federal employees should not have to choose between their desire for public service and their need for child care services.

By Mr. DASCHLE:

S. 1178. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project, South Dakota, to the Commission of Schools and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Energy and Natural Resources.

THE BLUNT RESERVOIR AND PIERRE CANAL LAND CONVEYANCE ACT OF 1999

Mr. DASCHLE. Mr. President, I am today introducing the Blunt Reservoir and Pierre Canal Land Conveyance Act

of 1999. This proposal is the culmination of more than 2 years of discussion with local landowners, the South Dakota Water Congress, the U.S. Bureau of Reclamation, local legislators, representatives of South Dakota sportsmen groups and affected citizens. It lays out a plan to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the Oahe Irrigation Project in South Dakota to the Commission of School and Public Lands of the State of South Dakota for the purpose of mitigating lost wildlife habitat, and provides the option to preferential leaseholders to purchase their original parcels from the Commission.

In order to more fully understand the issues addressed by the legislation, it is necessary to review some of the history related to the Oahe Unit of the Missouri River Basin project in South Dakota.

The Oahe Unit was originally approved as part of the overall plan for water development in the Missouri River Basin that was incorporated in the Flood Control Act of 1944. Subsequently, Public Law 90–453 authorized construction and operation of the initial stage. The purposes of the Oahe Unit as authorized were to provide for the irrigation of 190,000 acres of farmland, conserve and enhance fish and wildlife habitat, promote recreation and meet other important goals.

The project came to be known as the Oahe Irrigation Project, and the principal features of the initial stage of the project contained the Oahe pumping plant located near Oahe Dam to pump water from the Oahe Reservoir, a system of main canals, including the Pierre Canal, running east from the Oahe Reservoir, and the establishment of regulating reservoirs, including the Blunt Dam and Reservoir located approximately 35 miles east of Pierre, South Dakota.

Under the authorizing legislation, 42,155 acres were to be acquired by the Federal government in order to construct and operate the Blunt Reservoir feature of the Oahe Irrigation Project. Land acquisition for the proposed Blunt Reservoir feature began in 1972 and continued through 1977. A total of 17,878 acres actually were acquired from willing sellers.

The first land for the Pierre Canal feature was purchased in July 1975 and included the 1.3 miles of Reach lB. An additional 21-mile reach was acquired from 1976 through 1977, also from willing sellers.

Organized opposition to the Oahe Irrigation Project surfaced in 1973 and continued to build until a series of public meetings were held in 1977 to determine if the project should continue. In late 1977, the Oahe project was made a part of President Carter's Federal Water Project review process.

The Oahe project construction was then halted on September 30, 1977, when Congress did not include funding in the FY1978 appropriations.

Thus, all major construction contract activities ceased and land acquisition was halted. The Oahe Project remained an authorized water project with a bleak future and minimal chances of being completed as authorized. Consequently, the Department of Interior, through the Bureau of Reclamation, gave to those persons who willingly had sold their lands to the project the right for them and their descendants to lease those lands and use them as they had in the past until needed by the Federal government for project purposes.

During the period from 1978 until the present, the Bureau of Reclamation has administered these lands on a preference lease basis for those original landowners or their descendants and on a non-preferential basis for lands under lease to persons who were not preferential leaseholders. Currently, the Bureau of Reclamation administers 12,978 acres as preferential leases and 4,304 acres as non-preferential leases in the Blunt Reservoir.

As I noted previously, the Oahe Irrigation Project is related directly to the overall project purposes of the Pick-Sloan Missouri Basin program authorized under the Flood Control Act of 1944. Under this program, the U.S. Army Corps of Engineers constructed four major dams across the Missouri River in South Dakota. The two largest reservoirs formed by these dams, Oahe Reservoir and Sharpe Reservoir, caused the loss of approximately 221,000 acres of fertile, wooded bottomland which constituted some of the most productive, unique and irreplaceable wildlife habitat in the State of South Dakota. This included habitat for both game and non-game species, including several species which are now listed as threatened or endangered. Merriweather Lewis, while traveling up the Missouri River in 1804 on his famous expedition, wrote in his diary, ''Song birds, game species and furbearing animals abound here in numbers like none of the party has ever seen. The bottomlands and cottonwood trees provide a shelter and food for a great variety of species, all laying their claim to the river bottom.''

Under the provisions of the Wildlife Coordination Act of 1958, the State of South Dakota has developed a plan to mitigate a part of this lost wildlife habitat as authorized by Section 602 of Title VI of Public Law 105–277, October 21, 1998, known as the Cheyenne River Sioux Tribe, Lower Brule Sioux Tribe, and State of South Dakota Terrestrial Wildlife Habitat Restoration Act.

The State's habitat mitigation plan has received the necessary approval and interim funding authorizations under Sections 602 and 609 of Title VI.

The State's habitat mitigation plan requires the development of approximately 27,000 acres of wildlife habitat in South Dakota. Transferring the 4,304 acres of non-preferential lease lands in the Blunt Reservoir feature to the South Dakota Department of Game, Fish and Parks would constitute a significant step toward satisfying the habitat mitigation obligation owed to the state by the Federal government and as agreed upon by the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the South Dakota Department of Game, Fish and Parks.

As we developed this legislation, many meetings occurred among the local landowners, South Dakota Department of Game, Fish and Parks, business owners, local legislators, the Bureau of Reclamation, as well as representatives of sportsmen groups. It became apparent that the best solution for the local economy, tax base and wildlife mitigation issues would be to allow the preferential leaseholders (original landowner or descendant or operator of the land at the time of purchase) to have an option to purchase the land from the Commission of School and Public Lands after the preferential lease parcels are conveyed to the Commission. This option will be available for a period of 10 years after the date of conveyance to the Commission. During the interim period, the preferential leaseholders shall be entitled to continue to lease from the Commissioner under the same terms and conditions they have enjoyed with the Bureau of Reclamation. If the preferential leaseholder fails to purchase a parcel within the 10-year period, that parcel will be conveyed to the South Dakota Department of Game, Fish and Parks to be used to implement the 27,000-acre habitat mitigation plan.

The proceeds from these sales will be used to finance the administration of this bill, support public education in the state of South Dakota, and will be added to the South Dakota Wildlife Habitat Mitigation Trust Fund to assist in the payment of local property taxes on lands transferred from the Federal government to the state of South Dakota.

In summary, Mr. President, the State of South Dakota, the Federal government, the original landowners, the sportsmen and wildlife will benefit from this bill. It provides for a fair and just resolution to the private property and environmental problems caused by the Oahe Irrigation Project some 25 years ago. We have waited long enough to right some of the wrongs suffered by our landowners and South Dakota's wildlife resources.

I am hopeful that the Senate will act quickly on this legislation. Our goal is to enact a bill that will allow meaningful wildlife habitat mitigation to begin, give certainty to local landowners who sacrificed their lands for a defunct federal project they once supported, ensure the viability of the local land base and tax base, and provide well maintained and managed recreation areas for sportsmen. I ask unanimous consent that the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Blunt Reservoir and Pierre Canal Land Conveyance Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'')(58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.), Congress approved the Pick-Sloan Missouri River Basin program—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the purpose of the Oahe Irrigation Project was to meet the requirements of that Act by providing irrigation above Sioux City, Iowa;

(3) the principle features of the Oahe Irrigation Project included—

(A) a system of main canals, including the Pierre Canal, running east from the Oahe Reservoir; and

(B) the establishment of regulating reservoirs, including the Blunt Dam and Reservoir, located approximately 35 miles east of Pierre, South Dakota;

(4) land to establish the Pierre Canal and Blunt Reservoir was purchased from willing sellers between 1972 and 1977, when construction on the Oahe Irrigation Project was halted;

(5) since 1978, the Commissioner of Reclamation has administered the land—

(A) on a preferential lease basis to original landowners or their descendants; and

(B) on a nonpreferential lease basis to other persons;

(6) the 2 largest reservoirs created by the Pick-Sloan Missouri River Basin Program, Lake Oahe and Lake Sharpe, caused the loss of approximately 221,000 acres of fertile, wooded bottomland in South Dakota that constituted some of the most productive, unique, and irreplaceable wildlife habitat in the State;

(7) the State of South Dakota has developed a plan to meet the Federal obligation under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) to mitigate the loss of wildlife habitat, the implementation of which is authorized by section 602 of title VI of Public Law 105–277 (112 Stat. 2681–660); and

(8) it is in the interests of the United States and the State of South Dakota to—

(A) provide original landowners or their descendants with an opportunity to purchase back their land; and

(B) transfer the remaining land to the State of South Dakota to allow implementation of its habitat mitigation plan.

SEC. 3. BLUNT RESERVOIR AND PIERRE CANAL.

(a) DEFINITIONS.—In this section:

(1) BLUNT RESERVOIR FEATURE.—The term ''Blunt Reservoir feature'' means the Blunt Reservoir feature of the Oahe Irrigation Project authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665), as part of the Pick-Sloan Missouri River Basin Program.

(2) COMMISSION.—The term ''Commission'' means the Commission of Schools and Public Lands of the State of South Dakota.

(3) NONPREFERENTIAL LEASE PARCEL.—The term ''nonpreferential lease parcel'' means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is under lease to a person other than a preferential leaseholder as of the date of enactment of this Act.

(4) PIERRE CANAL FEATURE.—The term ''Pierre Canal feature'' means the Pierre Canal feature of the Oahe Irrigation Project authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891, chapter 665), as part of the Pick-Sloan Missouri River Basin Program.

(5) PREFERENTIAL LEASEHOLDER.—The term ''preferential leaseholder'' means a leaseholder of a parcel of land who is—

(A) the person from whom the Secretary purchased the parcel for use in connection with the Blunt Reservoir feature or the Pierre Canal feature;

(B) the original operator of the parcel at the time of acquisition; or

(C) a descendant of a person described in subparagraph (A) or (B).

(6) PREFERENTIAL LEASE PARCEL.—The term ''preferential lease parcel'' means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is under lease to a preferential leaseholder as of the date of enactment of this Act.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of Reclamation.

(8) UNLEASED PARCEL.—The term ''unleased parcel'' means a parcel of land that—

(A) was purchased by the Secretary for use in connection with the Blunt Reservoir feature or the Pierre Canal feature; and

(B) is not under lease as of the date of enactment of this Act.

(b) DEAUTHORIZATION.—The Blunt Reservoir feature is deauthorized.

(c) CONVEYANCE.—The Secretary shall convey all of the preferential lease parcels to the Commission, without consideration, on the condition that the Commission honor the purchase option provided to preferential leaseholders under subsection (d).

(d) PURCHASE OPTION.—

(1) IN GENERAL.—A preferential leaseholder shall have an option to purchase from the Commission the preferential lease parcel that is the subject of the lease.

(2) TERMS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a preferential leaseholder may elect to purchase a parcel on 1 of the following terms:

(i) Cash purchase for the amount that is equal to—

(I) the value of the parcel determined under paragraph (4); minus

(II) 10 percent of that value.

(ii) Installment purchase, with 20 percent of the value of the parcel determined under paragraph (4) to be paid on the date of purchase and the remainder to be paid over not more than 30 years at 3 percent annual interest.

(B) VALUE UNDER $10,000.—If the value of the parcel is under $10,000, the purchase shall be made on a cash basis in accordance with subparagraph (A)(i).

(3) OPTION EXERCISE PERIOD.—

(A) IN GENERAL.—A preferential leaseholder shall have until the date that is 10 years after the date of the conveyance under subsection (c) to exercise the option under paragraph (1).

(B) CONTINUATION OF LEASES.—Until the date specified in subparagraph (A), a preferential leaseholder shall be entitled to continue to lease from the Commission the parcel leased by the preferential leaseholder under the same terms and conditions as under the lease, as in effect as of the date of conveyance.

(4) VALUATION.—

(A) IN GENERAL.—The value of a preferential lease parcel shall be determined to be, at the election of the preferential leaseholder—

(i) the amount that is equal to—

(I) the number of acres of the preferential lease parcel; multiplied by

(II) the amount of the per-acre assessment of adjacent parcels made by the Director of Equalization of the county in which the preferential lease parcel is situated; or

(ii) the amount of a valuation of the preferential lease parcel for agricultural use made by an independent appraiser.

(B) COST OF APPRAISAL.—If a preferential leaseholder elects to use the method of valuation described in subparagraph (A)(ii), the cost of the valuation shall be paid by the preferential leaseholder.

(5) CONVEYANCE TO THE STATE OF SOUTH DAKOTA.—

(A) IN GENERAL.—If a preferential leaseholder fails to purchase a parcel within the period specified in paragraph (3)(A), the Commission shall convey the parcel to the State of South Dakota Department of Game, Fish, and Parks.

(B) WILDLIFE HABITAT MITIGATION.—Land conveyed under subparagraph (A) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(6) USE OF PROCEEDS.—Of the proceeds of sales of land under this subsection—

(A) not more than $500,000 shall be used to reimburse the Secretary for expenses incurred in implementing this Act;

(B) an amount not exceeding 10 percent of the cost of each transaction conducted under this Act shall be used to reimburse the Commission for expenses incurred implementing this Act;

(C) $3,095,000 shall be deposited in the South Dakota Wildlife Habitat Mitigation Trust Fund established by section 603 of division C of Public Law 105–277 (112 Stat. 2681–663) for the purpose of paying property taxes on land transferred to the State of South Dakota;

(D) $100,000 shall be provided to Hughes County, South Dakota, for the purpose of supporting public education;

(E) $100,000 shall be provided to Sully County, South Dakota, for the purpose of supporting public education; and

(F) the remainder shall be used by the Commission to support public schools in the State of South Dakota.

(e) CONVEYANCE OF NONPREFERENTIAL LEASE PARCELS AND UNLEASED PARCELS.—

(1) IN GENERAL.—The Secretary shall convey to the South Dakota Department of Game, Fish, and Parks the nonpreferential lease parcels and unleased parcels of the Blunt Reservoir and Pierre Canal.

(2) WILDLIFE HABITAT MITIGATION.—Land conveyed under paragraph (1) shall be used by the South Dakota Department of Game, Fish, and Parks for the purpose of mitigating the wildlife habitat that was lost as a result of the development of the Pick-Sloan project.

(f) LAND EXCHANGES FOR NONPREFERENTIAL LEASE PARCELS AND UNLEASED PARCELS.—

(1) IN GENERAL.—With the concurrence of the South Dakota Department of Game, Fish, and Parks, the South Dakota Commission of Schools and Public Lands may allow a person to exchange land that the person owns elsewhere in the State of South Dakota for a nonpreferential lease parcel or unleased parcel at Blunt Reservoir or Pierre Canal, as the case may be.

(2) PRIORITY.—The right to exchange nonpreferential lease parcels or unleased parcels

shall be granted in the following order of priority:

(A) Exchanges with current lessees for nonpreferential lease parcels.

(B) Exchanges with adjoining and adjacent landowners for unleased parcels and nonpreferential lease parcels not exchanged by current lessees.

(g) EASEMENT FOR IRRIGATION PIPE.—A preferential leaseholder that purchases land at Pierre Canal or exchanges land for land at Pierre Canal shall to allow the State of South Dakota to retain an easement on the land for an irrigation pipe.

(h) FUNDING OF THE SOUTH DAKOTA TERRESTRIAL WILDLIFE HABITAT RESTORATION TRUST FUND.—Section 603(b) of title VI of Public Law 105–277 (112 Stat. 2681–663) is amended by striking ''$108,000,000'' and inserting ''$111,095,000''.

By Mrs. BOXER.

S. 1179. A bill to amend title 18, United States Code, to prohibit the sale, delivery, or other transfer of any type of firearm to a juvenile, with certain exceptions.

YOUTH ACCESS TO FIREARMS ACT OF 1999

● Mrs. BOXER. Mr. President, last week during consideration of the juvenile justice bill, the Senate passed some reasonable, common-sense proposals to control the proliferation of guns in this country. I believe the Senate's action was an important first step. But there is more to be done. And, today, I am introducing legislation to prohibit the sale and transfer of any gun to a juvenile, unless it comes from a parent, grandparent, or legal guardian.

Let me start, Mr. President, with a review of current law. A federally licensed firearms dealer—that is, someone who runs a gun store—cannot sell a handgun to someone under the age of 21 and cannot sell any other type of gun to someone under the age of 18.

The law is different, however, for private transactions. Those are sales or transfers by unlicensed individuals at gun shows, at flea markets, or in a private home. Since 1994, it has been illegal for anyone under the age of 18 to buy a handgun in these cases. But it is not illegal for a juvenile to buy a long-gun—that is, a rifle, a shotgun, or a semiautomatic assault weapon—in a private transaction. And, it is not illegal for a long-gun to be transferred—given—to a juvenile.

This is not right. An 18-year-old cannot buy a can of beer. An 19-year-old cannot buy a bottle of liquor or a bottle of wine. Anyone under 18 cannot buy a pack of cigarettes. And, as I mentioned, since 1994, if you are under 18, you cannot buy a handgun.

There is a reason for this. There is a reason we keep certain things away from juveniles. And, it does not make sense to me to say that it is illegal to sell cigarettes, alcohol, and handguns to a kid, but it is okay to sell them a rifle or a shotgun or a semiautomatic assault weapon.

So, my bill—the Youth Access to Firearms Act—simply says that it would be illegal to sell, deliver, or transfer any firearm to anyone under the age of 18.

Now, in recognition of the culture and circumstances in many areas of this country, my bill does contain some exceptions to this prohibition.

First, the bill would not make possession of a long-gun by a juvenile a crime. It would only make the sale or transfer illegal.

Second, the bill would not apply to a rifle or shotgun given to a juvenile by that person's parent, grandparent, or legal guardian.

Third, it would not apply to another family member giving a juvenile a rifle or shotgun with the permission of the juvenile's parent, grandparent, or legal guardian.

Fourth, it would not apply to a temporary transfer—a loan—of a rifle or shotgun for hunting purposes.

And, fifth, it would not apply to the temporary transfer of a gun to a juvenile for employment, target shooting, or a course of instruction in the safe and lawful use of a firearm, if the juvenile has parental permission.

I have put these exceptions into the bill to make it clear what I am trying to do here. I am not trying to stop teenagers from having or responsibly using a rifle or a shotgun. I am not trying to stop teenagers from going hunting. I am not trying to prevent a parent or grandparent from giving a rifle or shotgun as a birthday present. But, what I am saying is that juveniles should not be able to buy a gun on their own—or be given one without the knowledge of their parents.

This is precisely what happened in Littleton, Colorado. The two teenage boys who shot up Columbine High School used four guns. Three of those four guns—two shotguns and a rifle—were given to them by an 18-year-old female friend. Under federal law, that was perfectly legal.

I should not be. You should not be able to sell a gun to a juvenile. And you should not be able to give a gun to a juvenile, unless you are the parent or grandparent.

As I said earlier, there are certain things that are legally off-limits to juveniles. Selling and giving them guns, if you are not their parent, should be one of those things.

I urge my colleagues to support this bill.●

By Mr. KENNEDY:

S. 1180. A bill to amend the Elementary and Secondary Education Act of 1965, to reauthorize and make improvements to that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

EDUCATIONAL EXCELLENCE FOR ALL CHILDREN ACT OF 1999

Mr. KENNEDY. Mr. President, it is a privilege to introduce President Clinton's proposal for reauthorizing the Elementary and Secondary Education Act, the ''Educational Excellence for All Children Act of 1999,'' along with Senators DODD, DASCHLE, MURRAY, SCHUMER, LEVIN, and DORGAN. This is another strong step by the President to ensure that all children have the benefit of the best possible education.

Since 1993, President Clinton has consistently led the way on improving schools and making sure that all children meet high standards.

Today, as a result, almost every state has established high standards for its students. ''High standards'' is no longer just a term for academics experts and policy makers—it is becoming a reality for the nation's schools and students.

The recently released National Assessment of Title I shows that student achievement is improving—and that the federal government is an effective partner in that success. This result is good news for schools, good news for parents, and good news for students—and it should be a wake up call to Congress. We need to do more to build on these emerging successes to ensure that every child has the opportunity for an excellent education.

At dinner tables and boardrooms across America, the topic of discussion is education. As a result of the progress we have made the past few years, we can look at the education glass on the table and say it's ''half full''—not ''half empty'' as critics of public schools would have the country believe.

Since the reauthorization of Title I in 1994, a non-partisan Independent Review Panel of twenty-two experts from across the country has been overseeing the evaluation of the program. As the largest federal investment in improving elementary and secondary schools, Title I is improving education for 11 million children in 45,000 schools with high concentrations of poverty. It helps schools provide professional development for teachers, improve curriculums, and extend learning time, so that students meet high state standards of achievement.

Under the 1994 amendments to Title I, states were no longer allowed to set lower standards for children in the poorest communities than for students in more affluent communities. The results are clear. Students do well when expectations are set high and they are given the support they need and deserve.

Student achievement in reading and math has increased—particularly the achievement of the poorest students. Since 1992, reading achievement for 9-year- olds in the highest poverty schools has increased by one whole grade level nationwide. Between 1990 and 1996, math scores of the poorest students also rose by a grade level.

Students are meeting higher state standards. According to state-reported results, students in the highest poverty elementary schools improved in 5 of 6 states reporting three-year data in reading and in 4 out of 5 states in math. Students in Connecticut, Maryland, North Carolina, and Texas made progress in both subjects.

Many urban school districts report that achievement also improved in their highest-poverty schools. In 10 of

13 large urban districts that report three-year trend data, more elementary students in the highest poverty schools are now meeting district or state standards of proficiency in reading or math. Six districts, including Houston, Dade County, New York, Philadelphia, San Antonio, and San Francisco, made progress in both subjects.

Federal funds are increasingly targeted to the poorest schools. The 1994 amendments to Title I shifted funds away from low-poverty schools and into high-poverty schools. Today, 95 percent of the highest-poverty schools receive Title I funds, up from 80 percent in 1993.

In addition, Title I funds help improve teaching and learning in the classroom. 99 percent of Title I funds go to the local level. 93 percent of those federal dollars are spent directly on instruction, while only 62 percent of all state and local education dollars are spent on instruction.

The best illustrations of these successes are in local districts and schools. In Baltimore County, Maryland, all but one of the 19 Title I schools increased student performance between 1993 and 1998. The success has come from Title I support for extended year programs, implementation of effective programs in reading, and intensive professional development for teachers.

At Roosevelt High School in Dallas, Texas, where 80 percent of the students are poor, Title I funds were used to increase parent involvement, train teachers to work more effectively with parents, and make other changes to bring high standards into every classroom. Student reading scores have nearly doubled, from the 40th percentile in 1992 to the 77th percentile in 1996. During the same period, math scores soared from the 16th to the 73rd percentile, and writing scores rose from the 58th to the 84th percentile.

In addition to the successes supported by Title I, other indicators demonstrate that student achievement is improving. U.S. students scored near the top on the latest international assessment of reading. American 4th graders out-performed students from all other nations except Finland.

At Baldwin Elementary School in Boston, where 80 percent of the students are poor, performance on the Stanford 9 test rose substantially from 1996 to 1998 because of increases in teacher professional development and implementation of a whole-school reform plan to raise standards and achievement for all children. In 1996, 66 percent of the 3rd grade students scored in the lowest levels in math. In 1998, 100 percent scored in the highest levels. In 1997, 75 percent of 4th graders scored in the lowest levels in reading. In 1998, no 4th graders scored at the lowest level, and 56 percent scored in the highest levels.

The combined verbal and math scores on the SAT increased 19 points from 1982 to 1997, with the largest gain of 15 points occurring between 1992 and 1997. The average math score is at its highest level in 26 years.

Students are taking more rigorous subjects than ever—and doing better in them. The proportion of high school graduates taking the core courses recommended in the 1983 report, A Nation At Risk, had increased to 52 percent by 1994, up from 14 percent in 1982 and 40 percent in 1990. Since 1982, the percentage of graduates taking biology, chemistry, and physics has doubled, rising from 10 percent in 1982 to 21 percent in 1994. With increased participation in advanced placement courses, the number of students that scored at 3 or above on the AP exams has risen nearly five-fold since 1982, from 131,871 in that year to 635,922 in 1998.

Clearly, the work is not done. These improvements are gratifying, but there is no cause for complacency. We must do more to ensure that all children have a good education. We must do more to increase support for programs like Title I to build on these successes and make them available to all children.

President Clinton's ''Educational Excellence for All Children Act of 1999'' builds on the success of the 1994 reauthorization of ESEA, which ensured that all children are held to the same high academic standards. This bill makes high standards the core of classroom activities in every school across the country—and holds schools and school districts responsible for making sure all children meet those standards. The bill focuses on three fundamental ways to accomplish this goal: improving teacher quality, increasing accountability for results, and creating safe, healthy, and disciplined learning environments for children.

This year, the nation set a new record for elementary and secondary student enrollment. The figure will reach an all-time high of 53 million students—500,000 more students than last year. Communities, the states, and Congress must work together to see that these students receive a good education.

Serious teacher shortages are being caused by the rising student enrollments, and also by the growing number of teacher retirements. The nation's schools need to hire 2.2 million public school teachers over the next ten years, just to hold their own. If we don't act now, the need for more teachers will put even greater pressure in the future on school districts to lower their standards and hire more unqualified teachers. Too many teachers leave within the first three years of teaching—including 30–50% of teachers in urban areas—because they don't get the support and mentoring they need. Veteran teachers need on-going professional development opportunities to enhance their knowledge and skills, to integrate technology into the curriculum, and to help children meet high state standards.

Many communities are working hard to attract, keep, and support good teachers—and often they're succeeding. The North Carolina Teaching Fellows Program has recruited 3,600 high-ability high school graduates to go into teaching. The students agree to teach for four years in the state's public schools, in exchange for a four-year college scholarship. School principals in the state report that the performance of the fellows far exceeds that of other new teachers.

In Chicago, a program called the ''Golden Apple Scholars of Illinois'' recruits promising young men and women into teaching by selecting them during their junior year of high school, then mentoring them through the rest of high school, college, and five years of actual teaching. 60 Golden Apple scholars enter the teaching field each year, and 90 percent of them stay in the classroom.

Colorado State University's ''Project Promise'' recruits prospective teachers from fields such as law, geology, chemistry, stock trading and medicine. Current teachers mentor graduates in their first two years of teaching. More than 90 percent of the recruits go into teaching, and 80 percent stay for at least five years.

New York City's Mentor Teacher Internship Program has increased the retention of new teachers. In Montana, only 4 percent of new teachers in mentoring programs left after their first year of teaching, compared with 28 percent of teachers without the benefit of mentoring.

New York City's District 2 has made professional development the central component for improving schools. The idea is that student learning will increase as the knowledge of educators grows—and it's working. In 1996, student math scores were second in the city.

Massachusetts has invested $60 million in the Teacher Quality Endowment Fund to launch the 12-to-62 Plan for Strengthening Massachusetts Future Teaching Force. The program is a comprehensive effort to improve recruitment, retention, and professional development of teachers throughout their careers.

Congress should build on and support these successful efforts across the country to ensure that the nation's teaching force is strong and successful in the years ahead.

The Administration's proposal makes a major investment in ensuring quality teachers in every classroom, especially in areas where the needs are greatest. It authorizes funds to help states and communities improve the recruitment, retention, and on-going professional development of teachers. It will provide states and local school districts with the support they need to recruit excellent teacher candidates, to retain and support promising beginning teachers through mentoring programs, and to provide veteran teachers with the on-going professional development

they need to help all children meet high standards of achievement. It will also support a national effort to recruit and train school principals.

In recognition of the national need to recruit 2.2 million teachers over the next decade, the Administration's proposal will fund projects to recruit and retain high-quality teachers and school principals in high-need areas. The Transition to Teaching proposal will continue and expand the successful ''Troops to Teachers'' initiative by recruiting and supporting mid-career professionals in the armed forces as teachers, particularly in high-poverty school districts and high-need subjects.

The proposal holds states accountable for having qualified teachers in the classroom. It requires that within four years, 95 percent of all teachers must be certified, working toward full certification through an alternative route that will lead to full certification within three years, or are fully certified in another state and working toward meeting state-specific requirements. It also requires states to ensure that at least 95 percent of secondary school teachers have academic training or demonstrated competence in the subject area in which they teach.

Parents and educators across the country also say that reducing class size is at the top of their priorities for education reform. It is obvious that smaller class sizes, particularly in the early grades, improve student achievement. We must help states and communities reduce class sizes in the early grades, when individual attention is needed most. Congress made a down-payment last year on helping communities reduce class size, and we can't walk away from that commitment now.

The Educational Excellence for All Children Act authorizes the full 7 years of this program, so that communities will be able to hire 100,000 teachers across the country.

We know qualified teachers in small classes make a difference for students. There is also mounting evidence that the President and Congress took the right step in 1994 by making standards-based reform the centerpiece of the 1994 reauthorization. In schools and school districts across the country that have set high standards and required accountability for results, student performance has risen, and the numbers of failing schools has fallen.

Nevertheless, 10 to 15 percent of high school graduates today—up to 340,000 graduates each year—do not continue their education. Often, they cannot balance a checkbook or write a letter to a credit card company to explain an error on a bill. Even worse, 11 percent of high school students never make it to graduation.

We are not meeting our responsibility to these students—and it is unconscionable to continue to abdicate our responsibility. Every day, children—poor children, minority children, English language learners, children with disabilities—face barriers to a good education, and also face the high-stakes consequences of failing in the future because the system is failing them now.

Schools and communities must do more to see that students obtain the skills and knowledge they need in order to move on to the next grade and to graduate. If students are socially promoted or forced to repeat the same grade without changing the instruction that failed the first time, they are more likely to drop out. Clearly, these practices must end.

The Administration's proposal makes public schools the centers of opportunity for all children—and holds schools accountability for providing this opportunity.

It requires schools, school districts, and states to provide parents with report cards that include information about student performance, the condition of school buildings, class sizes, quality of teachers, and safety and discipline in their schools. These report cards give parents the information they need to see that their schools are improving and their children are getting the education they deserve.

The proposal also holds schools and districts accountable for children meeting the standards. The bill requires schools and districts to end the unsound educational practices of socially promoting children or making them repeat a grade. States must collect data on social promotion and retention rates as an indicator of whether children are meeting high standards, and schools must implement responsible promotion policies. The proposal is designed to eliminate the dismal choice between social promotion and repeating a grade. It does so in several ways—by increasing support for early education programs, by improving early reading skills, by improving the quality of the teaching force, by providing extended learning time through after-school and summer-school programs, and by creating safe, disciplined learning environments for children.

Last year in Boston, School Superintendent Tom Payzant ended social promotion and traditional grade retention. With extensive community involvement, Mayor Menino, Superintendent Payzant, and the School Committee implemented a policy to clarify for everyone—schools, teachers, parents, and students—the requirements needed to advance from one grade to the next, and to graduate from a Boston public school.

The call for a new promotion and retention policy came primarily from middle and high schools, where teachers were facing students who had not mastered the skills they needed in order to go on to a higher grade. Now, all students will have to demonstrate that they have mastered the content and skills in every grade. If they fail to do so, schools and teachers must intervene with proven effective practices to help the students, such as attending summer-school and after-school programs, providing extra help during the regular school day, and working more closely with parents to ensure better results. In ways like these, schools and teachers are held accountable for results.

The Administration's proposal gives children who have fallen behind in their school work the opportunities they need to catch up, to meet legitimate requirements for graduation, to master basic skills, and meet high standards of achievement. A high school diploma should be more than a certificate of attendance. It should be a certificate of achievement.

Finally, the President's proposal helps create safe, disciplined, and healthy environments for children. Last year, President Clinton led a successful effort to increase funding for after-school programs in the current year. But far more needs to be done.

Effective programs are urgently needed for children of all ages during the many hours they are not in school each week and during the summer. The ''Home Alone'' problem is serious, and deserves urgent attention. Every day, 5 million children, many as young as 8 or 9 years old, are left alone after school. Juvenile crime peaks in the hours between 3 p.m. and 8 p.m. A recent study of gang crimes by juveniles in Orange County, California, shows that 60 percent of all juvenile gang crimes occur on schools days and peak immediately after school dismissal. Children left unsupervised are more likely to be involved in illegal activities and destructive behavior. We need constructive alternatives to keep children off the streets, away from drugs, and out of trouble.

We need to do all we can to encourage communities to develop after-school activities that will engage children. The proposal will triple our investment in after-school programs, so that one million children will have access to worthwhile activities.

The Act also requires school districts and schools to have sound discipline policies that are consistent with the Individual with Disabilities Education Act, are fair, and are developed with the participation of the school community. In addition, the Safe and Drug-Free Schools and Communities Act is strengthened to support research-based prevention programs to address violence and drug-use by youth.

In order to develop a healthy environment for children, local school districts will be able to use 5 percent of their funds to support coordinated services, so that children and their families will have better access to social, health, and educational services necessary for students to do well in school.

In all of these ways and more ways, President Clinton's proposal will help schools and communities bring high standards into every classroom and ensure that all children meet them. Major new investments are needed to

improve teacher quality—hold schools, school districts, and states accountable for results—increase parent involvement—expand after-school programs—reduce class size in the early grades—and ensure that schools meet strict discipline standards. With investments like these, we are doing all we can to ensure that the nation's public schools are the best in the world.

Education must continue to be a top priority in this Congress. We must address the needs of public schools, families, and children so that we ensure that all children have an opportunity to attend an excellent public school now and throughout the 21st Century.

President Clinton's proposal is an excellent series of needed initiatives, and it deserves broad bipartisan support. I look forward to working with my colleagues to make it the heart of this year's ESEA Reauthorization Bill.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE EDUCATIONAL EXCELLENCE FOR ALL CHILDREN ACT OF 1999—SECTION-BY-SECTION ANALYSIS

Section 2. Table of Contents. Section 2 of the bill would set out the table of contents for the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 *et seq.*, hereinafter in the section-by-section analysis referred to as ''the ESEA'') as it would be amended by the bill.

Section 3. America's Education Goals. Section 3 of the bill would rename the National Education Goals (currently in Title I of the Goals 2000: Educate America Act, P.L. 103–227), as ''America's Education Goals'' and update the Goals to reflect our Nation's continuing need for the Goals. Even though all the Goals will not have been reached by the year 2000 as originally hoped, nor accomplished to equal degrees, the Goals were purposely designed to set high expectations for educational performance at every stage of an individual's life, and there is a continued need to reaffirm these Goals as a benchmark to which all students can strive and attain. With policymakers, educators, and the public united in an effort to achieve America's Education Goals, the Nation will be able to raise its overall level of educational achievement.

Section 3(a) of the bill would contain findings concerning America's Education Goals, as well as descriptions of areas in which the Nation as a whole, as well as individual States, have been successful (or unsuccessful) at making progress toward achieving the various Goals during the last decade.

In order to reflect the overarching importance to America's Education Goals, section 3(b) of the bill would amend the ESEA to place the Goals in a proposed new section 3 of the ESEA. Proposed new section 3(a) of the ESEA would state the purpose of America's Education Goals as: setting forth a common set of national goals for the education of our Nation's students that the Federal Government and all States and local communities will work to achieve; identifying the Nation's highest education priorities related to preparing students for responsible citizenship, further learning, and the technological, scientific, economic, challenges of the 21st century; and establishing a framework for educational excellence at the national, State, and local levels. Proposed new section 3(b) of the ESEA would state the Goals.

Title I of the Goals 2000: Educate America Act, the current authority for the National Education Goals, would be repealed by section 1211 of the bill.

Section 4. Transition. Section 4 of the bill would specify the actions that the Secretary must, and a recipient of ESEA funds may, take as part of the transition between the requirements of the ESEA as in effect the day before the date of enactment of the Educational Excellence for All Children Act of 1999, and the requirements of the ESEA as amended by the bill.

Under section 4(a) of the bill, the Secretary would be required to take such steps as the Secretary determines to be appropriate to provide for the orderly transition to programs and activities under the ESEA, as amended by the bill, from programs and activities under the ESEA, as it was in effect the date before the date of enactment of the bill.

Under section 4(b) of the bill, a recipient of funds under the ESEA, as it was in effect the date before the date of enactment of the bill, may use such funds to carry out necessary and reasonable planning and transition activities in order to ensure a smooth implementation of programs and activities under the ESEA, as amended by the bill.

Section 5. Effective Dates. Section 5 of the bill would set out the effective dates for the bill. The bill would take effect July 1, 2000, except for those amendments made by the bill that pertain to programs administered by the Secretary on a competitive basis, and the amendments made by Title VIII of the bill (Impact Aid), which would take effect with respect to appropriations for fiscal year 2001 and subsequent fiscal years, and amendments made by section 4 of the bill (transition requirements), which would take effect upon enactment.

TITLE I—HELPING DISADVANTAGED CHILDREN MEET HIGH STANDARDS

Section 101, declaration of policy and statement of purpose [ESEA, §1001]. Section 101(a) of the bill would amend the statement of policy in section 1001(a) of the ESEA by deleting paragraph (2), which called for an annual increase in appropriations of at least $750 million from fiscal year 1996 through 1999.

Section 101(b) would amend the statement of need in section 1001(b) of the ESEA to reflect the bill's proposal to move the text of the National Education Goals from the Goals 2000: Educate America Act to section 3 of the ESEA, and to add a paragraph (6) noting the benefits of holding local educational agencies (LEAs) and schools accountable for results.

Section 101(c) would update the statement, in section 1001(c), of what has been learned, to reflect experience and research since that statement was enacted in 1994, including the addition of six new findings.

Section 101(d) would add, to the list of activities through which Title I's purpose is to be achieved, promoting comprehensive schoolwide reforms that are based on reliable research and effective practices.

Section 102, authorization of appropriations [ESEA, §1002]. Section 102 of the bill would restate, in its entirety, section 1002 of the ESEA, which authorizes the appropriation of funds to carry out the various Title I programs. As revised, section 1002 would authorize the appropriations of ''such sums as may be necessary'' for fiscal years 2001 through 2005 for grants to LEAs under Part A, the Even Start program under Part B, the education of migratory children under Part C, State agency programs for neglected or delinquent children under Part D, the Reading Excellence program (to be transferred to Part E from Title II), and certain Federal activities under section 1502 (to be redesignated as section 1602). Funds would no longer be authorized for capital expenses relating to the provision of Title I services to children in private schools. In addition, certain school-improvement activities would be funded by requiring States to dedicate a portion of their Title I grants to those activities, rather than through a separate authorization as in current law.

Section 103, reservations for accountability and evaluation [ESEA, §1003]. Section 103 of the ESEA, to require each SEA to reserve 2.5 percent of its annual Basic Grant under Part A of Title I to carry out the LEA and school improvement activities described in sections 1116 and 1117 in fiscal years 2001 and 2002, and 3.5 percent of that amount for that purpose in subsequent fiscal years. This requirement, which is an important component of the bill's overall emphasis on accountability for results, will ensure that each participating State devotes a sufficient portion of its Part A funds to the critical activities described in those sections. In addition, the SEA would have to allocate at least 70 percent of the reserved amount directly to LEAs in accordance with certain specified priorities or use at least that portion of the reserved amount to carry out an alternative system of school and LEA improvement and corrective action described in the State plan and approved by the Secretary.

Section 1003(b) of the ESEA would permit the Secretary to reserve up to 0.30 percent of each year's Title I appropriation to conduct evaluations and studies, collect data, and carry out other activities under section 1501.

PART A—basic grants

Section 111, State plans [ESEA, §1111). Section 111(1)(A) of the bill would amend section 1111(a)(1) of the ESEA, which requires a State that wishes to receive a Basic Grant under Part A of Title I to submit a State plan to the Secretary of Education (the Secretary). Section 111(1)(A)(i) would add language emphasizing that the purpose of a State's plan is to help all children achieve to high State standards and to improve teaching and learning in the State.

Section 111(1)(A)(ii) would add, to the list of other programs with which the plan must be coordinated, a specific reference to the Individuals with Disabilities Education Act (IDEA) and the Carl D. Perkins Vocational and Technical Education Act of 1998. This section would also delete a reference to the Goals 2000: Educate America Act, which another provision of the bill would repeal, and delete a cross-reference to a section in Title XIV that another provision of the bill would repeal.

Section 111(1)(B) would improve the readability of section 1111(a)(2), which permits a State to submit its Part A plan as part of a consolidated plan under section 14302 (to be redesignated as §11502).

Section 111(2)(A) would add a reference to accountability to the heading of section 1111(b), to reflect the proposed addition of language on that topic as section 1111(b)(3).

Section 111(2)(B)(i) would streamline section 1111(b)(1)(B), which requires that the challenging content and student-performance standards each State must use in carrying out Part A be the same standards that the State uses for all schools and children in the State, to reflect the progress that States are expected to have made under current law by the effective date of the bill.

Section 111(2)(B)(ii) would delete outdated language from section 1111(b)(1)(C), which provides that, if a State has not adopted content and student-performance standards for all students, it must have those standards for children served under Part A in subjects

determined by the State, which must include at least mathematics and reading or language arts.

Section 111(2)(C) would delete current section 1111(b)(2), which requires States to describe, in their plans, what constitutes adequate yearly progress by LEAs and schools participating in the Part A program. This requirement would be replaced by the new provisions on accountability in section 1111(b)(3), described below. Section 111(2)(C) would also redesignate paragraph (3) of section 1111(b), relating to assessments, as paragraph (2).

Section 111(2)(D)(i) would clarify that States must start using the yearly assessments described in current paragraph (3) of section 1111(b) (which the bill would redesignate as paragraph (2)) no later than the 2000–2001 school year.

Section 111(2)(D)(ii) would amend subparagraph (F) of current section 1111(b)(3), relating to the assessments of limited English proficient (LEP) children. Clauses (iv) and (v) would be added to require, respectively, that: (1) LEP students who speak Spanish be assessed with tests written in Spanish, if Spanish-language tests are more likely than English-language tests to yield accurate and reliable information on what those students know and can do in content areas other than English; and (2) tests written in English be used to assess the reading and language arts proficiency of any student who has attended school in the United States for three or more consecutive years.

Section 111(2)(E) would add a new provision on accountability as section 1111(b)(3). It would replace the current requirement that States establish criteria for ''adequate yearly progress'' in LEAs and schools with a requirement that they submit an accountability plan as part of their State applications, reflecting the critical role that accountability plays as a component of overall systems. In particular, each State would have to have an accountability system that is based on challenging standards, includes all students, promotes continuous improvement, and includes rigorous criteria for identifying and intervening in schools and districts in need of improvement. This proposal addresses concerns that many current accountability systems focus only on overall school performance and divert attention away from the students who need the greatest help.

Section 111(2)(F) would make a conforming amendment to section 1111(b)(4).

Section 111(2)(G) would delete paragraphs (5), (6), and (7) from section 1111(b). Paragraph (5) requires States to identify languages other than English that are present in the participating school population, to indicate the languages for which assessments are not available, and to make every effort to develop those assessments. This provision is burdensome and unnecessary. Paragraph (6) describes the schedule, established in 1994, for States to develop the necessary standards and assessments, while paragraph (7) governs the transition period during which States were not required to have ''final'' standards and assessments in place. These provisions would be obsolete by the time the bill takes effect. Instead, section 112(2)(G) would enact a new paragraph (5), providing that while a State may revise its assessments at any time, it must comply with the statutory timelines for identifying, assisting, and taking corrective action with respect to, LEAs and schools that need to improve.

Section 111(2) (H) and (I) would redesignate paragraph (8) of section 1111(b) as paragraph (6) and make conforming amendments to cross-references in that paragraph.

Section 111(3) of the bill would amend section 1111(c) of the ESEA, to significantly shorten the list of assurances that each State must include in its plan.

Section 111(4)(A) would delete section 1111(d)(2), relating to withholding of funds from States whose plans don't meet section 1111's requirements. That provision duplicates Part D of the General Education Provisions Act, which establishes uniform procedures and rules for withholding and other enforcement actions across a broad range of programs, including the ESEA programs, administered by the Department of Education.

Section 111(4)(B) would make technical amendments to section 1111(d)(1).

Section 111(4)(C) would amend current section 1111(d)(1)(B) to require the Secretary to include experts on educational standards, assessments, accountability, and the diverse educational needs of students in the peer-review process used to review State plans.

Section 111(5) would amend section 1111(e) to require each State to submit its plan to the Secretary for the first year for which Part A is in effect following the bill's enactment.

Section 111(6) would replace subsection (g) of section 1111, which is obsolete by its terms, with language permitting the Secretary to take any of the actions described in proposed section 11209 if the Secretary determines that a State is not carrying out its responsibilities under the new accountability provisions in section 1111(b)(3). These actions, which apply under section 11209 in the case of a State that fails to carry out its responsibilities under proposed Part B of Title XI (relating to teacher quality, social promotion, LEA and school report cards, and school discipline) would afford the Secretary a broad range of actions, ranging from providing technical assistance to withholding funds.

Section 112, local educational agency plans [ESEA, §1112] Section 112(1) of the bill would amend section 1112(a)(1) of the ESEA, which requires an LEA that wishes to receive subgrants under Part A of Title I to have a plan on file with, and approved by, the State educational agency. The bill would add, to the list of other programs with which the plan must be coordinated, a specific reference to the IDEA and the Carl D. Perkins Vocational and Technical Education Act of 1998. The bill would also delete a reference to the Goals 2000: Educate America Act, which another provision of the bill would repeal, and delete an inappropriate cross-reference.

Section 112(2)(A) would add language to section 1112(b) to emphasize that the purpose of an LEA's plan is to help all children achieve to high standards.

Section 112(2)(B) would amend section 1112(b)(1), relating to any student assessments that the LEA uses (other than those described in the State plan under section 1111), to require the LEA's plan to describe any such assessments that it will use to determine the literacy levels of first graders and their need for interventions and how it will ensure that those assessments are developmentally appropriate, use multiple measures to provide information about the variety of relevant skills, and are administered to students in the language most likely to yield valid results.

Section 112(2)(C) would amend section 1112(b)(3) to require an LEA's professional development strategy under Part A to also be a component of its professional development plan under the new Title II, if it receives Title II funds.

Section 112(2)(D) would amend section 1112(b)(4)(B) to remove an obsolete reference; conform that provision to the proposed repeal of Subpart 2 of Part 2 of Title I, relating to local programs for neglected or delinquent children; and include Indian children served under Title IX of the ESEA in the categories of children for whom an LEA's plan must describe the coordination of Title I services with other educational services those children receive.

Section 112(2)(F) would amend section 1112(b)(9), relating to preschool programs, to replace language in that provision with a cross-reference to new language that the bill would add to section 1120B.

Section 112(2)(G) would amend section 1112(b) to require LEAs to include two additional items in their plans: (1) a description of the actions it will take to assist its low-performing schools, if any, in making the changes needed to educate all children to the State standards; and (2) a description of how the LEA will promote the use of extended learning time, such as an extended school year, before- and after-school programs, and summer programs.

Section 112(3) would amend section 112(c), which describes the assurances that an LEA must include in its application, to conform to other provisions in the bill and to delete obsolete provisions relating to the Head Start program. Instead, the new Head Start standards would be incorporated into proposed section 1120B. Section 112(3) would also require that an LEA include new assurances that it will: (1) annually assess the English proficiency of all LEP children participating in Part A programs, use the results of those assessments to help guide and modify instruction in the content areas, and provide those results to the parents of those children; and (2) comply with the requirements of section 119 regarding teacher qualifications and the use of paraprofessionals.

Section 112(4) would amend section 1112(d), relating to the development and duration of an LEA's plan, to require the LEA to submit the plan for the first year for which Part A, as amended by the bill, is in effect, and to require an LEA to submit subsequent revisions to its plan to the LEA for its approval.

Section 112(5) would amend section 1112(e), relating to State review and approval of LEA plans, to require that States use a peer-review process in reviewing those plans, and to remove some obsolete language.

Section 113, eligible school attendance areas [ESEA, §1113]. Section 113(1) of the bill would amend section 1113, relating to eligible school attendance areas, to clarify language relating to waivers of the normal requirements for school attendance areas covered by State-ordered or court-ordered desegregation plans approved by the Secretary.

Section 113(2)(C) would restore to section 1112 the authority for an LEA to continue serving an attendance area for one year after it loses its eligibility. This language, which was removed from the Act in 1994, would give LEAs flexibility to prevent the abrupt loss of services to children who can clearly benefit from them, as individual attendance areas move in and out of eligibility from year to year.

Section 113(3)(A) would add, as section 1113(c)(2)(C), language to clarify that an LEA may allocate greater per-child amounts of Title I funds to higher-poverty areas and schools than it provides to lower-poverty areas and schools.

Section 113(3)(B) would amend section 1113(c)(3) to require an LEA to reserve sufficient funds to serve homeless children who do not attend participating schools, not just when the LEA finds it ''appropriate''. Some LEAs have invoked the current language as a justification for failing to provide services that they should provide.

Section 114, schoolwide programs [ESEA, §1114]. Section 114(a)(1) and (2) of the bill would amend section 1114(a) of the ESEA, which describes the purposes of, and eligibility for, schoolwide programs under section 1114, by revising the subsection heading to

more accurately reflect subsection (a)'s contents, and to delete current paragraph (2), which is obsolete.

Section 114(a)(3)(A) would make a conforming amendment to section 1114(a)(4)(A) to reflect the bill's redesignation of section 1114(b)(2) as section 1114(c).

Section 114(a)(3)(B) would amend the prohibition on using IDEA funds to support a schoolwide program to reflect the fact that section 613(a)(2)(D) of the IDEA, as enacted by the IDEA Amendments of 1997, now permits funds received under Part B of that Act to be used to support schoolwide programs, subject to certain conditions.

Section 114(a)(4) would delete paragraph (5) of section 1114(a), relating to professional development in schoolwide programs. That topic is addressed by other applicable provisions, including the revised statement of the required elements of schoolwide programs. See, especially, proposed sections 1114(b)(2)(C) and 1119.

Section 114(b)(1) would delete section 1114(c), which duplicates other provisions relating to school improvement, and section 114(b)(2) would redesignate current subsection (b)(2) as subsection (c). Under this revised structure, subsection (b) would list the required components of a schoolwide program, and subsection (c) would describe the contents of a plan for a schoolwide program.

Section 114(c) would revise the statement of the elements of a schoolwide program in section 1114(b) in its entirety. The revised statement would strengthen current law, to reflect experience and research over the past several years, including significant aspects of the Comprehensive School Reform Demonstration program.

Section 114(d)(1)–(4) would amend the requirements of section 1114 relating to plans for schoolwide programs (current subsection (b)(2), which the bill would redesignate as subsection (c)), to delete an obsolete reference and make technical and conforming amendments.

Section 114(d)(5) would add, as section 1114(c)(3), language requiring peer review and LEA approval of a schoolwide plan before the school implements it.

Section 115, targeted assistance schools [ESEA, §1115]. Section 115(1)(A)(i)(I) would make a technical amendment to section 1115(b)(1)(A) of the ESEA.

Section 115(1)(A)(ii) would delete the requirement that children be at an age at which they can benefit from an organized instructional program provided at a school or other educational setting in order to be eligible for services under section 1115. This change would make clear that preschool children of any age may be served under Part A as long as they can benefit from an organized instructional program.

Section 115(1)(B)(i) would amend section 1115(b)(2), which addresses the eligibility of certain groups of children, by deleting references to children who are economically disadvantaged. The current reference to that category of children is confusing, because it erroneously assumes that there are specific eligibility requirements for them.

Section 115(1)(B)(ii) would clarify that children who, within the prior two years, had received Title I preschool services are eligible for services under Part A, as are children who participated in a Head Start or Even Start program in that period.

Section 115(1)(B)(iii) and (iv) would amend section 1115(b)(2)(C) and (D) to clarify that certain other groups of children are eligible for services under section 1115.

Section 115(2)(C) would streamline section 1115(c)(1)(E), relating to coordination with, and support of, the regular education program.

Section 115(2)(D) would amend section 1115(c)(1)(F) to emphasize that instructional staff must meet the standards set out in revised section 1119.

Section 115(2)(E) would make a technical amendment to section 1115(c)(1)(G).

Section 115(2)(F) would correct an error in section 1115(c)(1)(H).

Section 115(3) would delete section 1115(e)(3), relating to professional development, because other provisions of Part A would address that topic.

Section 115A, school choice (ESEA, §1115A]. Section 115A of the bill would make a conforming change to section 1115A(b)(4) of the ESEA.

Section 116, assessment and local educational agency and school improvement [ESEA, §1116]. Section 116(a) of the bill would revise subsections (a) through (d) of section 1116 of the HSEA, in their entirety, as follows:

Section 1116(a), relating to LEA reviews of schools served under Part A. would be revised to conform to amendments that the bill would make section 1111 (State plans).

Section 1116(b) would provide examples of the criteria a State could use in designating Distinguished Schools, and would delete the cross-reference to section 1117, to reflect the bill's streamlining of that section.

Section 1116(c)(1)–(3), relating to an LEA's obligation to identify participating schools that need improvement, and to take various actions to bring abut that improvement, would be strengthened, consistent with the bill's overall emphasis on greater accountability. In particular, section 1116(c)(3)(A) would require each school so identified by an LEA, within three months of being identified, to develop or revise a school plan, in consultation with parents, school staff, the LEA, and a State school support team or other outside experts. The plan would have to have the greatest likelihood of improving the performance of participating children in meeting the State student performance standards, address the fundamental teaching and learning needs in the school, identify and address the need to improve the skills of the school's staff through effective professional development, identify student performance targets and goals for the next three years, and specify the responsibilities of the LEA and the school under the plan. The LEA would have to submit the plan to a peer-review process, work with the school to revise the plan as necessary, and approve it before it is implemented.

Section 1116(c)(5)(C) would be revised to make clear that, with limited exceptions, an LEA would have to take at least one of a list of specified corrective actions in the case of a school that fails to make progress within three years of its identification as being in need of improvement. The list would be limited to four possible actions, each of which is intended to have serious consequences for the school, to ensure that the LEA takes action that is likely to have a positive effect.

Section 116(d), relating to SEA review of LEA programs, would similarly be revised to conform to other provisions of the bill relating to accountability for achievement; to remove obsolete provisions; and to require an LEA that has been identified by the SEA as needing improvement to submit a revised Part A plan to the SEA for peer review and approval. In addition, the bill would strengthen and clarify language relating to the corrective actions that SEAs must take in the case of an LEA that fails to make sufficient progress within three years of being identified by the SEA as in need of improvement.

Section 117, State assistance for school support and improvement [ESEA, §1117]. Section 117 of the bill would substantially streamline section 1117 of the ESEA, relating to State support for LEA and school support and improvement. Much of current section 1117 is needlessly prescriptive and otherwise unnecessary, particularly in light of the strengthened provisions on LEA and school improvement and corrective actions in revised sections 1003(a)(2) and 1116.

Section 1117(a) would retain the requirement of current law that each SEA establish a statewide system of intensive and sustained support and improvement for LEAs and schools, in order to increase the opportunity for all students in those LEAs and schools to meet State standards.

Section 1117(b) would replace the statement of priorities in current section 1117(1) with a 3-step statement of priorities. The SEA would first provide support and assistance to LEAs that it has identified for corrective action under section 1116 and to individual schools for which an LEA has failed to carry out its responsibilities under that section. The SEA would then support and assist other LEAs that it has identified as in need of improvement under section 1116, but that it has not identified as in need of corrective action. Finally, the SEA would support and assist other LEAs and schools that need those services in order to achieve Title I's purpose.

Section 1117(c) would provide examples of approaches the SEA could use in providing support and assistance to LEAs and schools.

Section 1117(d) would direct each SEA to use the funds available to it for technical assistance and support under section 1003(a)(1) (other than the 70 percent or more that it reserves under section 1003(a)(2)) to carry out section 1117, and would permit the SEA to also use the funds it reserves for State administration under redesignated section 1701(c) (current section 1603(c)) for that purpose.

Section 118, parental involvement [ESEA, §1118]. Section 118 (1), (2), and (3) would make conforming amendments to section 1118, relating to parental involvement in Part A programs.

Section 118(4) would amend section 1118(f) so that the requirement to provide full opportunities for participation by parents with limited English proficiency and parents with disabilities, to the extent practicable, applies to all Part A activities, not just to the specific provisions relating to parental involvement.

Section 118(5) would repeal subsection (g) of section 1118, to reflect the bill's proposed repeal of the Goals 2000: Educate America Act.

Section 119, teacher qualification and professional development [ESEA, §1119]. Section 119(1) would change the heading of section 1119 to ''High-Quality Instruction'' to reflect amendments made to this section that are designed to ensure that participating children receive high-quality instruction.

Section 119(2) of the bill would delete subsection (f) of section 1119, which is not needed, and redesignate subsections (b) through (e) and (g) of that section as subsections (d) through (h).

Section 119(3) would insert a new subsection (a) in section 1119 to require that each participating LEA hire qualified instructional staff, provide high-quality professional development to staff members, and use at least five percent of its Part A grant for fiscal years 2001 and 2002, and 10 percent of its grant for each year thereafter, for that professional development.

Section 119(4) would insert new subsections (b) and (c) in section 1119 to specify the minimum qualifications for teachers and for paraprofessionals in programs supported with Part A funds. These requirements are designed to ensure that participating children receive high-quality instruction and assistance, so that they can meet challenging State standards.

Section 119(5)(A) would revise the list of required professional development activities in current section 1119(b), which would be redesignated as section 1119(c), to reflect experience and research on the most effective approaches to professional development.

Section 119(5)(B)(iii) would add child-care providers to those with whom an LEA could choose to conduct joint professional development activities under redesignated section 1119(d)(2)(H) (current section 1119(b)(2)(H)).

Section 119(6) would make a conforming amendment to section 1119(g), which would be redesignated as section 1119(h), relating to the combined use of funds from multiple sources to provide professional development.

Section 120, participation of children enrolled in private schools [ESEA, §1120]. Section 120(1)(A) of the bill would add, to section 1120(a)'s statement of an LEA's responsibility to provide for the equitable participation of students from private schools, language to make clear that the services provided those children are to address their needs, and that the teachers and parents of these students participate on an equitable basis in services and activities under sections 1118 and 1119 (parental involvement and professional development).

Section 120(1)(B) would amend section 1120(a)(4) to give each LEA the option of determining the number of poor children in private schools every year, as under current law, or every two years.

Section 120(2)(A) (ii) and (iii) would amend section 1120(b)(1), relating to the topics on which an LEA consults with private school officials about services to children in those schools, to include: (1) how the results of the assessments of the services the LEA provides will be used to improve those services; (2) the amounts of funds generated by poor children in each participating attendance area; (3) the method or sources of data that the LEA uses to determine the number of those children; and (4) how and when the LEA will make decisions about the delivery of services to those children.

Section 120(2)(B)(i) would amend section 1120(b)(2) to require that an LEA's consultation with private school officials include meetings. Consultations through telephone conversations and similar methods, while still permissible, would not, by themselves, be sufficient.

Section 120(2)(B)(ii) would amend section 1120(b)(2) to clarify that LEA-private school consultations are to continue throughout the implementation and assessment of the LEA's Part A program.

Section 120(3) would revise cross-references in section 1120(d)(2) to reflect the redesignation of sections by other provisions of the bill.

Section 120(4) would delete subsection (e) of section 1120(b), which authorizes the award of separate grants to States to help them pay for capital expenses that States and LEAs incur in providing services to children who attend private schools. In light of the Supreme Court's 1997 decision in *Agostini* v. *Felton*, which allows LEAs to provide Title I services on the premises of parochial schools, this authority is no longer needed.

Section 120A, fiscal requirements [ESEA, §1120A]. Section 120A(1) of the bill would make a conforming amendment to a cross-reference in section 1120A(a) of the ESEA, which requires an LEA to maintain fiscal effort as a condition of receiving Part A funds.

Section 120a(2) would amend section 1120A(c) of the ESEA, which requires a participating LEA to ensure that it provides services in Title I schools, from State and local sources, that are at least comparable to the services it provides in its other schools.

Section 120a(2)(A) would amend section 1120A(c)(2) to replace the current criteria for determining comparability with three criteria that would capture the concept of comparability more fairly and thoroughly. LEAs would be given until July 1, 2002, to comply with these new criteria.

Section 120A(2)(B) would amend section 1120A(c)(3)(B) to require LEAs to update their records documenting compliance with the comparability requirement annually, rather than every two years.

Section 120B, preschool services and coordination requirements [ESEA, §1120B]. Section 120B(1) of the bill would amend the heading of section 1120B of the ESEA to read ''Preschool Services; Coordination Requirements'' to more accurately reflect its content.

Section 120B(2) would make a technical amendment to section 1120B(c), relating to coordination of Title I regulations with Head Start regulations issued by the Department of Health and Human Services, to reflect enactment of the Head Start Amendments of 1998.

Section 120B(3) would add a subsection (d) to section 1120B to provide additional direction to preschool programs carried out with Part A funds, and to ensure that those programs are of high quality. This language replaces, and builds on, current section 1112(c)(1)(H).

Section 120C, allocations [ESEA, §§1121–1127]. Section 120C(a) of the bill would amend section 1121(b) of the ESEA, which authorizes assistance to the outlying areas, to correct an internal cross-reference in paragraph (1) and to make the $5 million total for assistance to the Freely Associated States (FAS) a maximum rather than a fixed annual amount. The Secretary should have the flexibility to determine that an amount less than the full $5 million may be warranted for the FAS in any given year, particularly in light of possible revisions to their respective compacts of free association.

Section 120C(b) would amend section 1122 of the ESEA, which governs the allocation of Part A funds to the States, by: (1) removing provisions that have expired; (2) describing the amount to be available for targeted assistance grants under section 1125; (3) providing for proportionate reductions in State allocations in case of insufficient appropriations; and (4) retaining the provisions on ''hold-harmless'' amounts that apply to fiscal year 1999. Most of the substance of law that is currently applicable would be retained, but the section as a whole would be significantly shortened.

Section 120C(c)(1)(A) would clarify (without substantive change) section 1124(a)(1), relating to the allocation of basic grants to LEAs.

Section 120C(c)(1)(B) would redesignate paragraphs (3) and (4) of section 1124(a) as paragraphs (4) and (5).

Section 120C(c)(1)(C) would revise, in their entirety, the statutory provisions governing the calculation of LEA basic grants in section 1124(a)(2) and move some of those provisions to section 1124(a)(3) to improve the section's structure and readability. As amended, section 1124(a)(2)(A) would direct the Secretary to make allocations on an LEA-by-LEA basis, unless the Secretary and the Secretary of Commerce (who is responsible for the decennial census and other activities of the Bureau of the Census) determine the LEA-level data on poor children is unreliable or that its use would otherwise be inappropriate. In that case, the two Secretaries would announce the reasons for their determination, and the Secretary would make allocations on the basis of county data, rather than LEA data, in accordance with new paragraph (3).

For any fiscal year for which the Secretary allocates funds to LEAs, rather than to counties, section 1124(a)(2)(B) would clarify that the amount of a grant to any LEA with a population of 20,000 or more is the amount determined by the Secretary. For LEAs with fewer people, the SEA could either allocate the amount determined by the Secretary or use an alternative method, approved by the Secretary, that best reflects the distribution of poor families among the State's small LEAs.

For any fiscal year for which the Secretary allocates funds to counties, rather than to LEAs, section 1124(a)(3) would direct the States to suballocate those funds to LEAs, in accordance with the Secretary's regulations. A State could propose to allocate funds directly to LEAs without regard to the county allocations calculated by the Secretary if a large number of its LEAs overlap county boundaries, or if it believes it has data that would better target funds than allocating them initially by counties.

In general, paragraphs (2) and (3) of section 1124(a) would retain current law, while eliminating extraneous or obsolete provisions, and making this portion of the statute much easier to read and understand than current law.

Section 120C(c)(1)(D) would revise language relating to Puerto Rico's Part A allocation (current section 1124(a)(3), which the bill would redesignate as section 1124(a)(4)) so that, over a 5-year phase-in period, its allocation would be determined on the same basis as are the allocations to the 50 States and the District of Columbia.

Section 120C(c)(2) would amend section 1124(b), relating to the minimum number of poor children needed to qualify for a basic grant, to improve its readability and to delete obsolete language.

Section 120C(c)(3)(A)(ii) would amend section 1124(c)(1), which describes the children to be counted in determining an LEA's eligibility for, and the amount of, a basic grant, to delete subparagraph (B), which permits the inclusion of certain children whose families have income above the poverty level. The number of these children is now quite small, and collection of reliable data on them is burdensome.

Section 120C(c)(3)(A)(iii) would amend section 1124(c)(1)(C), relating to counts of certain children who are neglected or delinquent, to give the Secretary the flexibility to use the number of those children for either the preceding year (required by current law) or for the second preceding year.

Section 120C(c)(3)(B)(ii) would delete the 3rd and 4th sentences of section 1124(c)(2), which provide a special, and unwarranted, benefit to a single LEA.

Section 120C(c)(3)(C) would update section 1124(c)(3), relating to census updates.

Section 120C(c)(3)(D) would repeal section 1124(c)(4), relating to a study by the National Academy of Sciences, which has been completed, and redesignate paragraphs (5) and (6) of section 1124(c) as paragraphs (4) and (5).

Section 120C(c)(3)(E)(i) would delete the first sentence of current section 1124(c)(5), which the bill would redesignate as section 1124(c)(4). This language, relating to counts of certain children from families with incomes above the poverty level, would no longer be needed in light of the deletion of these children from the count of children under section 1124(c)(1), described above.

Section 120C(c)(3)(E)(iii) and (F) would move, from current section 1124(c)(6) to current section 1124(c)(5) (to be redesignated as section 1124(c)(4)) a sentence about the counting of children in correctional institutions. This provides a more logical location for this provision.

Section 120C(c)(4)(B) would make a conforming amendment to section 1124(d).

Section 120C(d)(1)(A)(i) would remove obsolete language from section 1124A(a)(1)(A) of

the ESEA, which sets eligibility criteria for LEAs to receive concentration grants under section 1124A. The current eligibility criteria would be retained.

Section 120C(d)(1)(A)(ii) would make conforming amendments to section 1124A(a)(1)(B), relating to minimum allocations to States.

Section 120C(d)(1)(B) would replace the lengthy and complicated language in section 1124A(a)(4), relating to calculation of LEA concentration grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124(a)(3) and (4). Since the applicable rules are the same, there is no need to repeat them. In addition, the revised section 1124A(a)(4)(B) would retain the authority, unique to the allocation of concentration grants, under which a State may use up to two percent of its allocation for subgrants to LEAs that meet the numerical eligibility thresholds but are located in ineligible counties.

Section 120C(d)(2) would delete subsections (b) and (c) from section 1124A and redesignate subsection (d) as subsection (b). Subsection (b), relating to the total amount available for concentration grants, would be replaced by section 1122(a)(2). Subsection (c), providing for ratably reduced allocations in the case of insufficient funds, duplicates proposed section 1122(c).

Section 120C(e)(1) would make conforming amendments to section 1125(b) of the ESEA, relating to the calculation of targeted assistance grants under section 1125.

Section 120C(e)(2) would amend section 1125(c), which establishes weighted child counts used to calculate targeted assistance grants for both counties and LEAs, by deleting obsolete provisions and making technical and conforming amendments.

Section 120C(e)(3) would replace the lengthy and complicated language in section 1125(d), relating to calculation of targeted assistance grant amounts, with a simple cross-reference to the streamlined allocation provisions in section 1124(a)(3) and (4). Since the applicable rules are the same, there is no need to repeat them.

Section 120C(e)(4) would make a conforming amendment to section 1125(e).

Section 120C(f) would repeal section 1125A(e) of the ESEA, which authorizes appropriations for education finance incentive programs under section 1125A, and make conforming amendments to that section. Appropriations for this provision would be covered by the general authorization of appropriations for Part A of Title I in section 1002(a).

Section 120C(g) would make a conforming amendment to section 1126(a)(1), relating to allocations for neglected children.

Section 120D, program indicators [ESEA, §1131]. Section 120D of the bill would add a new Subpart 3, Program Indicators, to Part A of Title I of the ESEA. Subpart 3 would contain only one section, §1131, which would identify 7 program indicators relating to schools participating in the Part A program, on which States would report annually to the Secretary.

Part B—Even Start

Part B of Title I of the bill would amend Part B of Title I of the ESEA, which authorizes the Even Start program.

Section 121, statement of purpose [ESEA, §1201]. Section 121 of the bill would amend the Even Start statement of purposes in section 1201 of the ESEA by requiring that the existing community resources on which Even Start programs are built be of high quality, and by adding a requirement that Even Start programs be based on the best available research on language development, reading instruction, and prevention of reading difficulties. These amendments would reflect amendments made to other provisions of the Even Start statute in 1998 and enactment of the Reading Excellence Act (Title II, Part C of the ESEA) in that same year.

Section 122, program authorized [ESEA, §1201]. Section 122(1) of the bill would amend section 1202(a) of the ESEA, which directs the Secretary to reserve 5 percent of each year's Even Start appropriation for certain populations and areas. As revised, section 1202(a) would emphasize that programs funded under the 5-percent reservation are meant to serve as national models; retain the current requirement to support projects for the children of migratory workers, Indian tribes and tribal organizations, and the outlying areas; specify that the amount reserved each year for the outlying areas is one-half of one percent of the available funds; and permit the Secretary to fund projects that serve additional populations (such as homeless families, families that include children with severe disabilities, and families that include incarcerated mothers of young children). The latter provision would replace the current requirement to award a grant for a program in a woman's prison when appropriations reach a certain level.

Section 122(2) of the bill would amend section 1202(b) of the ESEA, which authorizes the Secretary to reserve up to 3 percent of each year's appropriation for evaluation and technical assistance. Because other provisions of the bill would provide a new authority to fund evaluations across the entire range of ESEA programs, the specific reference to evaluations would be deleted here, and the maximum set-aside for technical assistance (the remaining activity under this provision) would be one percent. In addition, section 1202(b) would permit the Secretary to provide technical assistance directly, as well as through grants and contracts.

Section 122(3) of the bill would amend section 1202(c) of the ESEA, which directs the Secretary to spend $10 million each year on competitive grants for interagency coordination of statewide family literacy initiatives, to make these awards permissive rather than mandatory, and to remove the specific dollar amount that must be devoted to these awards each year. The Secretary should have the flexibility to determine the ongoing need for these awards, as well as the amount devoted to them, and whether program funds should be devoted instead to services to children and families.

Section 122(4) and (5) would make technical and conforming amendments to section 1202(d) and (e).

Section 122(5)(A) would amend the definition of ''eligible organization'' in section 1202(e)(2) to permit for-profit, as well as nonprofit, organizations to qualify as providers of technical assistance under section 1202(b). The current limitation unnecessarily limits the pool of providers, excluding some who are highly qualified.

Section 123, State programs [ESEA, §1203]. Section 123(1) of the bill would redesignate subsections (a) and (b) of section 1203 of the ESEA as subsections (b) and (c) and insert a new subsection (a) relating to State plans. New subsection (a)(1) would require a State that wants an Even Start grant to submit a State plan to the Secretary, including certain key information specified in the bill, including the State's indicators of program quality, which the 1998 amendments require each State to develop. Subsection (a)(2) would parallel language relating to State plans under Part A of Title I by providing that each State's plan would cover the duration of its participation in the program and requiring the State to periodically review it and revise it as necessary.

Section 123(3) and (4) of the bill would make technical and conforming amendments to section 1203.

Section 124, uses of funds [ESEA, §1204]. Section 124(1) of the bill would amend section 1204(a) of the ESEA, relating to the permissible uses of Even Start funds, by replacing a reference to ''family-centered education programs'' with ''family literacy services''. ''Family literacy services'' is the term used elsewhere in the statute and defined in section 1202(e)(3).

Section 124(2) would make a conforming amendment to section 1204(b)(1).

Section 125, program elements [ESEA, §1205]. Section 125 of the bill would restate, in its entirety, section 1205 of the ESEA, which lists the required elements of each Even Start program. This restatement would provide helpful clarification and greater readability for some of these elements; reorder the elements in a more logical sequence; add some new elements; and move certain requirements that now apply to local applications and State award of subgrants (under sections 1207(c)(1) and 1208(a)(1)) to the list of program elements, where they more logically belong.

In particular, career counseling and job-placement services would be added to the examples of services that can be offered as a way to accommodate participants' work schedules and other responsibilities under paragraph (3). Paragraph (4) would be revised to require that instructional programs integrate all the elements of family literacy services and use instructional approaches that, according to the best available research, will be most effective. Paragraph (5) would contain new requirements relating to the qualifications of instructional staff and paraprofessionals that parallel the requirements proposed, under section 1119, for Part A and that are designed to ensure that Even Start participants receive high-quality services. Paragraph (6) (currently (5)) would add a new requirement that staff training be aimed at helping staff obtain certification in relevant instructional areas, as well as the necessary skills. Paragraph (8) (currently (9)) would add (to language incorporated from current section 1207(c)(1)(E)(ii)) a specific reference to individuals with disabilities as included among those who may be most in need of services. Paragraph (9) would clarify and consolidate, into a single element, the various statutory provisions that promote the retention of families in Even Start programs, including the requirement of current paragraph (7) to operate on a year-round basis, the requirement of current section 1208(a)(1)(C) to provide services for at least a 3-year age range, and the language in current section 1207(c)(1)(E)(iii) about encouraging participating families to remain in the program for a sufficient period of time to meet their program goals.

This updated statement of program elements reflects experience and research over the past several years. It will promote better program planning and higher quality programs, with better results for participating families.

Section 126, eligible participants [ESEA, §1206]. Section 126 of the bill would amend section 1206(a)(1)(B) of the ESEA to restore the eligibility of teenage parents who are attending school, but who are above the State's age for compulsory school attendance. As amended in 1994, the current statute terminates a parent's eligibility when he or she is no longer within the State's age range for compulsory school attendance, excluding many teen parents and their children who could benefit from Even Start services.

Section 127, applications [ESEA, §1207]. Section 127(a) of the bill would amend section 1207(c) of the ESEA, relating to local Even Start plans, by emphasizing the importance of continuous program improvement; requiring a local program's goals to include outcome goals for participating children and

families that are consistent with the State's program indicators; emphasize that the program must address each of the program elements in the revised section 1205; and require each program to have a plan for rigorous and objective evaluation. Current subparagraphs (E) and (F) of section 1207(c)(1) would be deleted because the substance of those provisions would be addressed in the revised statement of program elements in section 1205.

Section 127(b) of the bill would delete subsection (d) of section 1207, which purports to allow an eligible entity to submit its local Even Start plan as part of an SEA's consolidated application under Title XIV of the ESEA. This provision has had no practical effect.

Section 128, award of subgrants [ESEA, §1208]. Section 128(a)(1) of the bill would amend section 1208(a)(1) of the ESEA, relating to a State's criteria for selecting local programs for Even Start subgrants, by deleting subparagraph (C), which refers to a three-year age range for providing services, because that provision would be converted to a program element under section 1205. Section 128(a)(1) would also make technical and clarifying amendments to section 1208(a)(1).

Section 128(a)(2) would amend section 1208(a)(3) to require a State's review panel to include an individual with expertise in family literacy programs, to enhance the quality of the panel's review and selections. Inclusion of one or more of the types of individuals described in section 1208(a)(3)(A)–(E) would be made optional, rather than mandatory.

Section 128(b) of the bill would add a new authority, as section 1208(c), for each State to continue Even Start funding, for up to two years beyond the statutory 8-year limit, for not more than two projects in the State that have been highly successful and that show substantial potential to serve as models for other projects throughout the Nation and as mentor sites for other family literacy projects in the State. This would allow States and localities to learn valuable lessons from well-tested, proven programs.

Section 129, evaluation [ESEA, §1209]. Section 129 of the bill would delete paragraph (3) from the national evaluation provisions in section 1209 of the ESEA. That paragraph describes certain technical assistance activities that are more appropriately addressed under section 1202(b).

Section 130, program indicators [ESEA, §1210]. Section 130 of the bill would amend section 1210 of the ESEA to set a deadline of September 30, 2000 for States to develop the indicators of program quality required by the 1998 amendments. Those amendments did not include any deadline for the development of those indicators. In addition, the bill would add, to the current indicators that States are to develop, indicators relating to the levels of intensity of services and the duration of participating children and adults needed to reach the outcomes the States specifies for the currently required indicators.

Section 130A, repeal and redesignation [ESEA, §§1211 and 1212]. Section 131(a) of the bill would repeal section 1211 of the ESEA, relating to research. The essential elements of this section would be incorporated into the revised section on evaluations (§1209). Section 131(b) of the bill would redesignate section 1212 of the ESEA as section 1211.

Part C—Education of migratory children

Part C of Title I of the bill would amend Part C of Title I of the ESEA, which authorizes grants to State educational agencies to establish and improve programs of education for children of migratory farmworkers and fishers, to enable them to meet the same high academic standards as other children.

Section 131, State allocations [ESEA, §1301]. Section 131(1) of the bill would amend section 1303(a) of the ESEA, which describes how available funds are allocated to States each year. The bill would replace the current provisions relating to the count of migratory children, which are based on estimates and full-time equivalents (FTE) of these children. These provisions are ambiguous, and require either a burdensome collection of data or the continued use of increasingly dated FTE adjustment factors based on 1994 data. The bill would base a State's child count on the number of eligible children, aged 3 thru 21, residing in the State in the previous year, plus the number of those children who received services under Part C in summer or intersession programs provided by the State. This approach would be simple to understand and administer, minimize data-collection burden on States, and encourage the identification and recruitment of eligible children. The double weight given to children served in summer or intersession programs would reflect the greater cost of those programs, and would encourage States to provide them.

Section 131(1) would also add, to section 1303(a), a new paragraph (2), which would establish minimum and maximums for annual State allocations. No State would be allocated more than 120 percent, or less than 80 percent, of its allocation for the previous year, except that each State would be allocated at least $200,000. The link to a State's prior-year allocation would ameliorate the disruptive effects of substantial increases and decreases in State child counts from year to year, which are typical among migratory children. The $200,000 minimum would ensure that each participating State receives enough funds to carry out an effective program, including the costs of finding eligible children and encouraging them to participate in the program.

Section 131(2) would revise subsection (b), which describes the computation of Puerto Rico's allocation, so that, over a 5-year phase-in period, its allocation would be determined on the same basis as are the allocations of the 50 States.

Section 131(3) would delete subsections (d) and (e) of section 1303, relating to certain consortia formed by LEAs and the mehods the Secretary must follow to detemine the estimated number of migratory children in each State, respectively. Subsection (d) is unduly burdensome for States and the Department to administer, and consortia can be addressed more effectively through incentive grants under section 1308(d). Subsection (e) would have no further relevance under the revised child-count provisions of section 1303(a)(1).

Section 132, State applications [ESEA, §1304]. Section 132 of the bill would amend section 1304 of the ESEA, which requires States to submit applications for grants under the Migrant Education program, describes the children who are to be given priority for services, and authorizes the provision of services to certain categories of children who are no longer migratory.

Section 131(1)(A) would amend section 1304(b)(1) to require the State's application to include certain material that is now required to be in its comprehensive plan (but not in its application) under section 1306(a). This reflects the proposed repeal of the requirement for a comprehensive service-delivery plan that is separate from the State's application for funds, in order to streamline program requirements and reduce paperwork burden on States.

Section 132(1)(B) would amend section 1304(b)(5) to clarify the factors that States are to consider when making subgrants to local operating agencies.

Section 132(1)(C) would redesignate paragraphs (5) and (6) of section 1304(b) as paragraphs (6) and (7), respectively.

Section 132(1)(D) would insert a new paragraph (5) in section 1304(b) to require a State's application to describe how the State will encourage migratory children to participate in State assessments required under Part A of Title I.

Section 132(2)(A) and (B) would make technical and conforming amendments to section 1304(c)(1) and (2).

Section 132(2)(C) would strengthen the requirements of section 1304(c)(3) relating to the involvement of parents and parent advisory councils.

Section 132(2)(D) would make a conforming amendment to section 1304(c)(7) to reflect the bill's amendments relating to child counts.

Section 133, authorized activities [ESEA, §1306]. Section 133 of the bill would restate, in its entirety, section 1306 of the ESEA, to delete the requirement that a participating State develop a comprehensive service-delivery plan that is separate from its application for funds under section 1304. The important elements of this plan would be incorporated into section 1304, as amended by section 132 of the bill. In addition, section 1306(a) would clarify current provisions regarding priority in the use of program funds; the use of those funds to provide services described in Part A to children who are eligible for services under both the Migrant Education program and Part A; and the prohibition on using program funds to provide services that are available from other sources.

Section 134, coordination of migrant education activities [ESEA, §1308]. Section 134 of the bill would amend section 1308 of the ESEA, which authorizes various activities to support the interstate and intrastate coordination of migrant-education activities.

Section 134(1)(A) would make for profit entities eligible for awards under section 1308(a). The current restriction to nonprofit entities has made it difficult to find organizations with the necessary technical expertise and experience to carry out certain important activities, such as the 1–800 help line and the program support center.

Section 134(1)(B) would make a technical amendment to section 1308(a)(2).

Section 134(2) would amend section 1308(b) to remove obsolete provisions relating to the records of migratory children and to conform to the proposed deletion of references in section 1303 to the ''full-time equivalent'' numbers of those students in determining child counts.

Section 134(3) would increase, from $6,000,000 to $10,000,000, the maximum amount that the Secretary could reserve each year from the appropriation for the Migrant Education program to support coordination activities under section 1308. This increase would be consistent with the Department's appropriations Acts for the two most recent fiscal years, increase the amount available for State incentive grants under section 1308(d), and make funds available to assist States and LEAs in transferring the school records of migratory students.

Section 134(4) would amend section 1308(d), which authorizes incentive grants to States that form consortia to improve the delivery of services to migratory children whose education is interrupted. These grants would be permitted, rather than required as under current law, so that the Secretary would have the flexibility to determine, from year to year, whether funds ought to be devoted to other activities under section 1308. The maximum amount that could be reserved for these grants would be increased from $1.5 million to $3 million so that, in years when these grants are warranted, they can be made to more than a token number of States. The requirement to make these awards on a competitive basis would be deleted because it is needlessly restrictive and

results in an unduly complicated process of determining the merits of applications in relation to each other in years when all applications warrant approval and sufficient funds are available. Deleting this requirement would provide the Secretary with flexibility to, for example, award equal amounts to each consortium with an approvable application, or to provide larger awards to consortia including States that receive relatively small allocations under section 1303.

Section 135, definitions [ESEA, §1309). Section 135 of the bill would delete two references to a child's guardian in the definition of ''migratory child'' in section 1309(2) of the ESEA, because the term ''parent''. which is also used in that section, is defined in section 14101(22) of the ESEA (which the bill would redesignate as section 11101(22)) to include ''a legal guardian or other person standing in loco parentis''.

Part D—Neglected and delinquent

Part D of Title I of the bill would amend Part D of Title I of the ESEA, which authorizes assistance to States and, through the States, to local agencies, to provide educational services to children and youth who are neglected or delinquent.

Section 141, program name. Section 141 of the bill would amend the heading of Part D of Title I of the ESEA to read, ''State Agency Programs for Children and Youth Who Are Neglected or Delinquent''. This name would more accurately reflect the bill's proposed deletion of the authority for local programs in Subpart 2 of Part D.

Section 142 findings; purpose; program authorized [ESEA, §1401]. Section 142(a) of the bill would update the findings in section 1401(a) of the ESEA, and shorten them to reflect the proposed deletion of Subpart 2.

Section 142(b) would amend the statement of purpose in section 1401(b) to reflect the proposed deletion of Subpart 2.

Section 142(c) would amend the statement of the program's authorization in section 1401(b) to reflect the proposed deletion of Subpart 2.

Section 143, payments for programs under Part D [ESEA, §1402]. Section 143 of the bill would delete section 1402(b) of the ESEA, which requires that States retain funds generated throughout the State under Part A of Title I (Basic Grants) on the basis of youth residing in local correctional facilities or attending community day programs for delinquent children and youth, and use those Part A funds for local programs under subpart 2 of Part D. This conforms to the bill's proposal to delete Subpart 2. Section 142 would also make other conforming amendments to section 1402.

Section 144, allocation of funds [ESEA, §1412]. Section 144 of the bill would amend section 1412(b) of the ESEA, which describes the computation of Puerto Rico's allocation under Part D, so that, over a 5-year phase-in period, its allocation would be determined on the same basis as are the allocations of the 50 States. Section 144 would also make conforming and technical amendments to section 1412(a).

Section 145, State plan and State agency applications [ESEA, §1414]. Section 145(2)(A) of the bill would amend section 1414(a)(2) of the Act, relating to the contents of a State's plan, to require the plan to provide that participating children will be held to the same challenging academic standards, as well as given the same opportunity to learn, as they would if they were attending local public schools. Section 145 would also correct erroneous citations in section 1414.

Section 146, use of funds [ESEA, §1415]. Section 146 of the bill would correct an erroneous citation in section 1415 of the ESEA, relating to the permissible use of Part D funds.

Section 147, local agency programs [ESEA, §§1412–1426]. Section 147 of the bill would repeal Subpart 2 (Local Agency Programs) of Part D and redesignate Subpart 3 (General Provisions) as Subpart 2. The local agency program is unduly complicated for States to administer and does not promote effective services for children who are, or have been, neglected or delinquent. Those services are better provided through other local, State, and Federal programs, including other ESEA programs, such as Basic Grants under Part A.

Section 148, program evaluations [ESEA, §1431]. Section 148(1) of the bill would amend section 1431(a) of the ESEA, relating to the scope of evaluations under Part D, to conform to the proposed repeal of Subpart 2.

Section 148(2) would amend section 1431(b) to require that the multiple measures of student progress that a State agency must use in conducting program evaluations, while consistent with section 1414's requirement to provide participating children the same opportunities to learn and to hold them to the same standards that would apply if they were attending local public schools, must be appropriate for the students and feasible for the agency. This modification would recognize that, for a variety of reasons, it may not be appropriate to administer the same tests to students who are, or have been, neglected or delinquent, as are given to children of the same age who are in traditional public schools.

Section 148(3) of the bill would amend section 1431(c), relating to the results of evaluations, to reflect the proposed repeal of Subpart 2.

Section 149, definitions [ESEA, §1432]. Section 149 of the bill would delete the definition of ''at-risk youth'' in paragraph (2) of section 1432, and renumber the remaining paragraphs. The deleted term is used only in Subpart 2, which would be repealed.

Part E—Federal evaluations, demonstrations, and transition projects

Section 151, evaluations, management information, and other Federal activities [ESEA, §1501]. Section 151 of the bill would amend, in its entirety, section 1501 of the ESEA, which authorizes the Secretary to conduct evaluations and assessments, collect data, and carry out other activities that support the Title I programs and provide information useful to those who authorize and administer that title. As revised, section 1501 would support the activities that are essential for the Secretary to carry out over the next several years: evaluating Title I programs; helping States, LEAs, and schools develop management-information systems; carrying out applied research, technical assistance, dissemination, and recognition activities; and obtaining updated census information so that funds are allocated using the most up-to-date information about low-income families. Section 1501 would also provide for the continued conduct of the national assessment of Title I and the national longitudinal study of Title I schools.

Section 1502, demonstrations of innovative practices. Section 152 of the bill would make conforming amendments to section 1502 of the ESEA.

Part F—General provisions

Section 161, general provisions [ESEA, §§1601–1604]. Section 161(1) of the bill would repeal sections 1601 and 1602 of the ESEA. Section 1601 sets out highly prescriptive requirements relating to regulations under Title I that should not be retained. Instead, Title I, like other ESEA programs, should remain subject to the rulemaking requirements of the Administrative Procedure Act and of section 437 of the General Education Provisions Act. Section 1602 requires the Secretary to issue a program assistance manual and to respond to certain inquiries within 90 days. These are similarly inappropriate and unwarranted restrictions on the Secretary's discretion in administering the Title I program.

Section 161(2) would redesignate sections 1603 and 1604 as sections 1601 and 1602.

Part G—Reading excellence

Section 171, reading and literacy grants to State educational agencies [ESEA, §2253]. Section 171 of the bill would amend section 2253 of the ESEA (which directs the Secretary to award grants to SEAs to carry out the reading and literacy activities described in Part C of Title II of the ESEA), which section 178(B)(1) of the bill would transfer to Part E of Title I, as follows:

Paragraph (1) would amend the current limit of one grant per State, in section 2252(a)(2)(A), to permit a State to receive sequential, but not simultaneous, grants. Thus, a State could receive a second grant after its first grant period is over.

Paragraph (2) would add, to the State application requirements in section 2253(b)(2)(B), a clause (ix) to require an SEA's application to include the process and criteria it will use to review and approve LEA applications for the two types of subgrants available under this part: local reading improvement subgrants under section 2255 and tutorial assistance subgrants under section 2256, including a peer-review process that includes individuals with relevant expertise.

Paragraph (3) would clarify the unclear language in section 2253(c)(2)(C), which requires the Federal peer-review panel, in making funding recommendations to the Secretary, to give priority to States that have modified, are modifying, or will modify their teacher certification requirements to require effective training of prospective teachers in methods of reading instruction that reflect scientifically based reading research.

Paragraph (4) would make a technical amendment to section 2253(d)(3), which permits States to use certain consortia or similar entities that it formed before enactment of the Reading Excellence Act on October 21, 1998, in lieu of a partnership that meets that Act's requirements.

Section 172, use of amounts by State educational agencies [ESEA, §2254]. Section 172 of the bill would amend section 2254 of the ESEA so that the State's cost of administering the program of tutorial assistance subgrants under section 2256 would be subject to the overall five percent limit on State administrative costs. That amount should be sufficient for all the State's costs of administering the Reading Excellence program. Any amounts set aside under the 15 percent limit in section 2254(2) would have to be used for the actual subgrants to LEAs and not for State administrative expenses.

Section 173, local reading improvement subgrants [ESEA, §2255]. Section 173(a) of the bill would amend section 2255(a) of the ESEA, which describes the LEAs that are eligible to apply for a local reading improvement subgrant under section 2255, to limit eligibility to LEAs that operate schools for grades 1 through 3. LEAs that serve only middle and/or high school students should not be eligible for this program, which is intended to help children read well and independently by the third grade.

Section 173(b) would amend section 2255(d)(i), which describes the activities that an LEA may carry out with its subgrant, to require that the schools in which reading instruction is provided serve children in the first through third grades. As with the provision described above relating to LEA eligibility, this amendment will ensure that the

program's objective of helping children to read by the 3rd grade is met.

Section 174, tutorial assistance subgrants [ESEA, §2256]. Section 174(a) and (b) of the bill would make amendments to section 2256 of the ESEA, which authorizes subgrants to LEAs for tutorial assistance, that correspond to the amendments to section 2255 (local reading improvement subgrants) that ensure that the program focuses on its intended age range, children from pre-kindergarten through 3rd grade.

Section 174(a) would also make the following amendments to section 2256:

Paragraph (1)(B) would delete subsection (a)(1)(A), which makes an LEA eligible for a tutorial assistance subgrant if any school in its jurisdiction is located in an empowerment zone or enterprise community, because LEAs are not eligible through this route for local reading improvement subgrants under section 2255. Making the eligibility criteria the same for the two types of subgrants, as provided by this amendment, will increase the likelihood that tutorial activities are carried out in the same LEAs that receive local reading improvement subgrants, promoting the coordination of the activities supported by the two types of subgrants.

Paragraph (5) would delete, from current section 2256(a)(2)(B), which the bill would redesignate as section 2256(a)(3)(B), language conditioning the receipt of all Title I funds by each LEA that is currently eligible under section 2256 on its providing public notice of the tutorial assistance program to parents and possible providers of tutoring services. This provision is grossly disproportionate in its severity and is not logically related to the large amounts of funds it affects under the other Title I programs. Any failure to provide the notice described in this section should be subject to the same range of consequences that attach to possible noncompliance with any other requirement of the statute.

Paragraph (6) would make conforming amendments to current section 2256(a)(3), which the bill would redesignate as section 2256(a)(4), to reflect the proposed deletion of eligibility of LEAs on the basis of having a school located in an empowerment zone or enterprise community under section 2256(a)(1)(A).

Paragraph (7) would make technical and conforming amendments to current subsection (a)(4), which the bill would redesignate as subsection (a)(5).

Section 175, national evaluation [ESEA, §2257). Section 175 of the bill would amend section 2257 of the ESEA, which provides for a national evaluation of the program under this part, to remove a cross-reference to a current provision that earmarks funds for the evaluation. Other provisions of the will would provide the Secretary with authority to pay for evaluations of all ESEA programs, removing the need for individual evaluation earmarks.

Section 176 information dissemination [ESEA, §2258]. Section 176(1) of the bill would amend section 2258 of the ESEA, which provides for the dissemination of program information, to reflect the transfer of the program's authorization of appropriations to section 1002(e) of the ESEA. It would also add authority for the National Institute for Literacy, which administers section 2258, to use up to five percent of the amount available each year to pay for the costs of administering that section.

Section 176(2) would add, as subsection (c) of section 2258, authority for the Secretary to reserve up to one percent of each fiscal year's appropriation for the Reading Excellence program for technical assistance, program improvement, and replication activities.

Section 177, authorization of appropriations [ESEA, §2260]. Section 177 of the bill would repeal section 2260 of the ESA, which authorizes appropriations for the program, to reflect the transfer of the program's authorization of appropriations to section 1002(e) of the ESEA.

Section 178, transfer and redesignations. Section 178 of the bill would transfer the authority for the Reading Excellence program, currently in Part C of Title II of the ESEA, to Part E of Title I, redesignate current Parts E and F of Title I as Parts F and G, and make other technical and conforming amendments.

TITLE II—HIGH STANDARDS IN THE CLASSROOM

Section 201 of the bill would amend Title II of the ESEA in its entirety, as follows:

Part A—Teaching to high standards

Part A of Title II would authorize a new program in the ESEA by consolidation the existing Eisenhower State Grants (Title II) and Innovative Education Program Strategies (Title VI) programs in the ESEA and Title III of the Goals 2000: Educate America Act.

Subpart 1—Findings, purpose and Authorization of appropriations

Section 2111, findings. Section 2111 would set out findings for Part A.

Section 2112, purpose. Section 2112 would state that the purpose of Part A is to: (1) Support States and LEAs in continuing the task of developing challenging content and student performance standards and aligned assessments, revising curricula and teacher certification requirements, and using challenging content and student performance standards to improve teaching and learning; (2) ensure that teachers and administrators have access to professional development that is aligned with challenging State content and student performance standards in the core academic subjects; (3) provide assistance to new teachers during their first three years in the classroom; and (4) support the development and acquisition of curricular materials and other instructional aids that are not normally provided as part of the regular instructional program and that will advance local standards-based school reform efforts.

Section 2113, authorizations of appropriations. Section 2113 would authorize the appropriation of such sums as may be necessary for each of the two operational subparts of Part A for fiscal years 2001, through 2005.

Subpart 2—State and local activities.

Section 2121, allocations to States. Section 2121 would provide for allocations to the States, including the District of Columbia and Puerto Rico; the outlying areas; and schools operated or funded by the Bureau of Indian Affairs (BIA). The Secretary would reserve a total of one percent for the outlying areas and the BIA. The remaining funds would be allocated to States, based one-half on each State's share of funds under Part A of Title I for the previous fiscal year and one-half on each state's relative share of the population aged 5 to 17. No State may receive a grant that is less than one-half of one percent of the amount available for State grants.

Section 2122, priority for professional development in mathematics and science. Section 2122(a) would establish rules for the use of Part A funds for professional development in mathematics and science at various appropriations levels. A key priority of the Teaching to High Standards proposal is directing Federal sources to support professional development that strengthens instruction in the core academic content areas, instead of professional development that uses general strategies for improving classroom instruction that are not based on academic content. Toward that end, the bill would require States and LEAs to use funds for professional development only in the academic content areas and would increase the current Eisenhower program's $250 million set-aside for professional development in mathematics and science to $300 million. This ''trigger'' means that if the annual appropriation for Part A is $300 million or less, each State would be required to devote its entire allocation to supporting professional development in mathematics and science (including all funds retained at the State level and those distributed by the SEA and the State agency for higher education (SAHE) as grants to LEAs). For years in which the appropriation is higher than $300 million, each State would be required to allocate a percentage of its funding toward mathematics and science professional development that is at least as much as the State would have received had the appropriation been $300 million. The SEA and the SAHE would jointly determine how the State would structure the use of State-level funding and grants to LEAs to meet this requirement.

Section 2122(b) would provide that, for purposes of meeting the priority requirements of subsection (a), professional development in mathematics and science may include interdisciplinary activities, as long as these activities include a strong focus on mathematics and science. Subsection (c) would require that funds in excess of the $300 million appropriation be used in one or more of the core academic subjects, including mathematics and science.

Section 2123, State application. Section 2123 would require each State to submit an application that is developed by the SEA in consultation with the SAHE, community-based and other nonprofit organizations with experience in providing professional development, and institutions of higher education (IHEs). This section would also describe what States must include in their applications. The Secretary would have to approve a State application if a peer-review panel determines that it satisfactorily addresses the application requirements and holds reasonable promise of achieving the purposes of the program.

Section 2124, annual State reports. Section 2124 would require a State to submit annual reports to the Secretary that describe its activities under this program, report on the progress of subgrant recipients against program performance indicators that the Secretary identifies and any other indicators that the State requires, and contain other information that the Secretary requires.

Section 2125, within-State allocations. Section 2125 would allow an SEA to reserve up to 10 percent of the State allocation for State-level activities, program evaluations, and administration. Not more than one third of this reservation could be used for administration. The SEA would also have to make available to the SAHE an amount equal to what the State's allocation would be if the amount of the appropriation for this subpart were $60 million. From the amount remaining, the SEA would make formula and competitive subgant awards to LEAs. Of the amount that is reserved for LEAs, the SEA would allocate 50 percent to LEAs in proportion to the relative numbers of children, aged 5 to 17, from low-income families within the LEA and award 50 percent to LEAs on a competitive basis.

Section 2126, State-level activities. Section 2126 would provide examples of activities that SEAs could carry out with the funds they reserve for State-level activities to promote high-quality instruction.

Section 2127, subgrants to partnerships of institutions of higher education and local educational agencies. Section 2127 would allow

SAHEs to reserve not more than 3⅓ percent of their allocation for administrative activities and program evaluations and require them, in cooperation with the SEA, to award competitive subgrants to, or enter into contracts or cooperative agreements with, IHEs or nonprofit organizations to provide professional development in the core academic subjects. These awards would be for 3 years (which would be extended for 2 more years if the subgrantee is making substantial progress) and made using a peer-review process. The SAHE would give priority to projects that focus on teacher induction programs and could make awards only to projects that include an LEA, are coordinated with activities carried out under Title II of the Higher Education Act of 1965 (if the LEA or IHE is participating in that program), and involve the IHE's school or department of education and the school or departments in the specific disciplines in which the professional development will be provided.

Section 2127 would also describe the activities that award recipients must carry out and require them to submit an annual report to the SAHE, beginning with fiscal year 2002, on their progress against indicators of program performance that the Secretary may establish. The SAHE would provide the SEA with copies of these reports.

Section 2128, competitive local awards. Section 2128 would require SEAs to award competitive subgrants to LEAs from the funds reserved for that purpose under section 2125. The SEA would use a peer-review process that includes reviewers who are knowledgeable in the academic content areas. SEAs would award subgrants based on the quality of the applicants' proposals and their likelihood of success, and on the demonstrated need of applicants, based on specified criteria.

Section 2128 would also require SEAs to adopt strategies to ensure that LEAs with the greatest need are provided a reasonable opportunity to receive an award. Subgrants would be for a three-year period, which the SEA would extend for an additional two years if it determines that the LEA is making substantial progress toward meeting the goals in the LEA's district-wide plan for raising student achievement against State standards and against the performance indicators identified by the Secretary under section 2136.

Section 2129, local applications. Section 2129 would require an LEA to submit an application to the SEA in order to be eligible to receive a formula or competitive subgrant. The application would include a district-wide plan that describes how the LEA will raise student achievement against State standards by: (1) supporting the alignment of curricula assessments, and professional development to challenging State and local content standards. (2) providing professional development in the core academic content areas; (3) carrying out activities to assist new teachers during their first three years in the classroom; and (4) ensuring that teachers employed by the LEA are proficient in teaching skills and content knowledge.

In addition, the LEA application would: (1) identify specific goals for achieving the purposes of the program; (2) describe how the LEA will address the needs of high-poverty, low-performing schools; (3) describe how the LEA will address the needs of teachers of students with limited English proficiency and other students with special needs; (4) include an assurance that the LEA will collect data that measures progress toward the indicators of program performance that the Secretary identifies; (5) describe how the LEA will coordinate funds under this subpart with professional development activities funded through other State and Federal programs; (6) describe how the LEA will use its subgrant funds awarded by formula to address the items in the district-wide plan described above; and (7) describe how it would use the additional funds from a competitive subgrant, if it is applying for one, to implement that plan.

Section 2130, uses of funds. Section 2130 would describe the activities an LEA may conduct with program funds in order to implement its district-wide plan.

Section 2131, local accountability. Section 2131 would require each LEA to submit an annual report to the SEA, beginning in fiscal year 2002, that contains: (1) information on its progress against the indicators of program performance that the Secretary identifies and against the LEA's program goals; (2) data disaggregated by school poverty level, as defined by the Secretary; and (3) a description of the methodology the subgrantee used to gather the data.

Section 2132, local cost-sharing requirement. Section 2132 would provide that the Federal share of activities carried out under Subpart 2 with funds received by formula may not exceed 67 percent for any fiscal year. The Federal share of activities carried out under this subpart with funds awarded on a competitive basis could not exceed 85 percent during the first year of the subgrant, 75 percent during the second year, 65 percent during the third year, 55 percent during the fourth year, and 50 percent during the fifth year.

Section 2133, maintenance of effort. Section 2133 would require each participating LEA to maintain its fiscal effort for professional development at the average of its expenditures over the previous three years.

Section 2134, equipment and textbooks. Section 2134 would provide that subgrantees may not use program funds for equipment, computer hardware, textbooks, telecommunications fees, or other items, that would otherwise be provided by the LEA or State, or by a private school whose students receive services under the program.

Section 2135, supplement, not supplant. Section 2135 would require an LEA to use program funds only to supplement the level of funds or resources that would otherwise be made available from non-Federal sources, and not to supplant those non-Federal funds or resources.

Section 2136, program performance indicators. Section 2136 would require the Secretary to identify indicators of program performance against which recipients would report their progress.

Section 2137, definitions. Section 2137 would define ''core academic subjects'', ''high-poverty local educational agency'', ''low-performing school'', and ''professional development''.

Subpart 3—National activities for the improvement of teaching and school leadership

Section 2141, program authorized. Section 2141 would authorize the Secretary to make awards to a wide variety of public and private agencies and entities to support: (1) activities of national significance that are not supported through other sources and that the Secretary determines will contribute to the improvement of teaching and school leadership in the Nation's schools; (2) activities of national significance that will contribute to the recruitment and retention of highly qualified teachers and principals in high-poverty LEAs; (3) a national evaluation of the Part A program; and (4) the National Board for Professional Teaching Standards. Section 2141(b)(5) would direct the Secretary to provide support for the Eisenhower National Clearinghouse for Mathematics and Science Education under section 2142.

Section 2142, Eisenhower National Clearinghouse for Mathematics and Science Education. Section 2142 would retain, with few changes, the authority in current section 2102(b) for the Eisenhower National Clearinghouse for Mathematics and Science Education, as follows:

Subsection (a) would provide authority for the Clearinghouse.

Subsection (b) would authorize activities and establish certain requirements related to the Clearinghouse, including the application and award process, the duration of the grant or contract, the activities the award recipient must carry out, the submission of materials to the Clearinghouse, and the establishment of a steering committee.

Part B—Transition to teaching; troops to teachers

Section 2111, findings. Section 2211 of the ESEA would set out the Congressional findings for the new Part B. In the next decade, school districts will need to hire more than 2 million teachers, especially in the areas of math, science, foreign languages, special education, and bilingual education. The need for teachers able to teach in high-poverty school districts will be particularly high. To meet this need, talented Americans of all ages should be recruited to become successful, qualified teachers.

Nearly 28 percent of teachers of academic subjects have neither a major nor a minor in their main assignment fields. This problem is even more actuate in high-poverty areas, where the out-of-field percentage is 39.

Additionally, the Third International Math and Science Study (TIMSS) ranked U.S. high school seniors last among 16 countries in physics, and next to last in math. Based mainly on TIMSS data, it is also evident that a stronger emphasis needs to be placed on the academic preparation of our children in math and science.

Further, one-fourth of high-poverty schools find it very difficult to fill bilingual teaching positions, and nearly half of public school teachers have students in their classrooms for whom English is a second language.

Many career-changing professionals with strong content-area skills are interested in making a transition to a teaching career, but need assistance in getting the appropriate pedagogical training and classroom experience. The Troops to Teachers model has been highly successful in linking high-quality teachers to teach in high-poverty school districts.

Section 2212, purpose. Section 2212 of the ESEA would establish the statement of purpose for the program, which would be to address the need of high-poverty school districts for highly qualified teachers in subject areas such as mathematics, science, foreign languages, bilingual education, and special education needed by those school districts. This would be accomplished by continuing and enhancing the Transition to Teaching model for recruiting and supporting the placement of such teachers, and by recruiting, preparing, placing, and supporting career-changing professionals who have knowledge and experience that would help them become such teachers.

Section 2213, program authorized. Section 2213 of the ESEA would establish the program authority and the authorization of appropriations for the Transition to Teaching program. Under section 2213(a), the Secretary would be authorized to use funds appropriated under section 2213(c) for each fiscal year to award grants, contracts, or cooperative agreements to institutions of higher education and public and private nonprofit agencies or organizations to carry out programs authorized by this part.

Section 2213(b)(1)(A) would provide that, before making any awards under section

2213(a), the Secretary would be required to consult with the Secretaries of Defense and Transportation with respect to the appropriate amount of funding necessary to continue and enhance the Troops to Teachers program. Additionally, section 2213(b)(1)(B) would provide that, upon agreement, the Secretary would transfer the amount under section 2213(b)(1)(A) to the Department of Defense to carry out the Troops to Teachers program. Further, section 2213(b)(2) would allow the Secretary to enter into a written agreement with the Department of Defense and Transportation, or take such steps as the Secretary determines are appropriate to ensure effective continuation of the Troops to Teachers program.

Finally, section 2213(c) would authorize the appropriation of such sums as may be necessary to carry out Part B for fiscal years 2001 through 2005.

Section 2214, application. Section 2214 of the ESEA would establish the application requirements. Section 2214 would provide that an applicant that desires a grant under Part B must submit to the Secretary an application containing such information as the Secretary may require. Applicants would be required to: (1) include a description of the target group of career-changing professionals on which they would focus in carrying out their programs under this part, including a description of the characteristics of that target group that shows how the knowledge and experience of its members is relevant to meeting the purpose of this part; (2) describe how it plans to identify and recruit program participants; (3) include a description of the training program participants would receive and how that training would relate to their certification as teachers; (4) describe how it would ensure that program participants were placed and would teach in high-poverty LEAs; (5) include a description of the teacher induction services that program participants would receive throughout at least their first year of teaching; (6) include a description of how the applicant would collaborate, as needed, with other institutions, agencies, or organizations to recruit, train, place, and support program participants under this part, including evidence of the commitment of the institutions, agencies, or organizations to the applicant's program; (7) include a description of how the applicant would evaluate the progress and effectiveness of its program, including the program's goals and objectives, the performance indicators the applicant would use to measure the program's progress, and the outcome measures that would be used to determine the program's effectiveness; and (8) submit an assurance that the applicant would provide to the Secretary such information as the Secretary determines necessary to determine the overall effectiveness of programs under this part.

Section 2215, uses of funds and period of service. Section 2215 of the ESEA would describe the activities authorized under Part B. Under section 2215(a), Part B funds could be used to: (1) recruit program participants, including informing them of opportunities under the program and putting them in contact with other institutions, agencies, or organizations that would train, place, and support them; (2) authorize training stipends and other financial incentives for program participants, not to exceed $5,000, in the aggregate, per participant; (3) assist institutions of higher education or other providers of teacher training to meet the particular needs of professionals who are changing their careers to teaching; (4) authorize placement activities, including identifying high-poverty LEAs with needs for particular skills and characteristics of the newly trained program participants and assisting those participants to obtain employment in those LEAs; and (5) authorize post-placement induction or support activities for program participants.

Section 2215(b) would establish the required period of service for program participants. Under section 2215(b), a program participant who completes his or her training would be required to teach in a high-poverty LEA for at least three years. Section 2215(c) would allow the Secretary to establish appropriate requirements to ensure that program participants who receive a training stipend or other financial incentive, but fail to complete their service obligation, repay all or a portion of such stipend or other incentive.

Section 2216, equitable distribution. Section 2216 of the ESEA would require the Secretary, to the extent practicable, to make awards under Part B that support programs in different geographic regions of the Nation.

Section 2217, definitions. Section 2217 of the ESEA would establish definitions for the program. Section 2217(1) would define the term ''high-poverty local educational agency'' as an LEA in which the percentage of children, ages 5 though 17, from families below the poverty line is 20 percent or greater, or the number of such children exceeds 10,000. Section 2217(2) would define the term ''program participants'' as career-changing professionals who hold at least a baccalaureate degree, demonstrate interest in, and commitment to, becoming a teacher, and have knowledge and experience relevant to teaching a high-need subject area in a high-poverty LEA.

Part C—Early childhood educator professional development

Section 2301, purpose. Section 2301 of the ESEA would establish the purpose of the new Part C program, which is to support the national effort to attain the first of America's Education Goals by enhancing school readiness and preventing reading difficulties in young children, through early childhood education programs that improve the knowledge and skills of early childhood educators working in high-poverty communities. The program would help meet the need for early childhood educators in high-poverty communities with limnited acess to early childhood education and to high-quality early childhood education professionals.

Section 2302, program authorized. Section 2302(a) of the ESEA would authorize the Secretary to make competitive grants to eligible partnerships. An eligible partnership would consist of: (1) at least one institution of higher education that provides professional development for early childhood educators who work with children from low-income families in high-need communities, or another public or private, nonprofit entity that provides that professionals development; and (2) at least one other public or private nonprofit agency or organization, such as an LEA, an SEA, a State human services agency, a State or local agency administering programs under the Child Care and Development Block Grant Act of 1990, or a Head Start agency.

Section 2302(b) would direct the Secretary to give a priority to applications from partnerships that include at least one LEA that operates early childhood programs for children from low-income families in high-need communities.

Section 2302(c) would authorize grants for up to four years, and limit each grantee to one grant under this program.

Section 2303, applications. Section 2303 of the ESEA would set out requirements for applications for funds. Among other information, each application would include a description of the high-need community to be served; information on the quaity of the early childhood educator professional development program currently being conducted by a member of the partnership; the results of the applicant's assessment of the professional development needs of early childhood education providers to be served by the partnership and in the broader community and how the project will address those needs; a description of how the proposed project would be carried out; descriptions of the project's specific objectives and how progress toward those objectives will be measured; how the applicant plans to institutionalize project activities once Federal funding ends; an assurance that, where applicable, the project will provide appropriate professional development to volunteer staff, as well as to paid staff; and an assurance that the applicant consulted with, and will consult with, relevant agencies and organizations that are not members of the partnership.

Section 2304, selection of grantees. Section 2304 of the ESEA would require the Secretary to select grantees according to both the community's need for assistance and the quality of applications, and seek to ensure that communities in urban and rural communities and in difference regions of the Nation are served.

Section 2305, uses of funds. Section 2305 of the ESEA would require that, in general, grant recipients use grant funds to carry out activities that will improve the knowledge and skills of early childhood educators who are working in early childhood programs serving concentrations of poor children in high-need communities. Allowable professional development activities for early childhood educators include, but would not be limited to, activities that: familiarize early childhood educators with recent research on child, language, and literacy development and on early childhood pedagogy; train them to work with parents, and with children with limited English proficiency, disabilities, and other special needs; assist educators during their first three years in the field; development and implementation of professional development programs for early childhood educators using distance learning and other technologies; and data collection, evaluation, and reporting activities necessary to meet program accountability requirements.

Section 2306, accountability. Section 2306(a) of the ESEA would require the Secretary to announce performance indicators, designed to measure the quality of the professional development on the early childhood education provided by the individuals trained, and such other measures of program impact as the Secretary determines. Section 2306(b) would require projects to report annually on their progress in meeting these performance indicators. The Secretary could terminate a grant if the grantee is not making satisfactory progress against the Secretary's indicators.

Section 2307, cost-sharing. Section 2307 of the ESEA would require each grantee to contribute at least half of the overall cost of its project, including at least 20 percent in each year, from other sources, which may include other Federal sources. The Secretary could waive or modify this requirement in the case of demonstrated financial hardship.

Section 2308, definitions. Section 2308 of the ESEA would define the terms ''high-need community'', ''low-income family'', and ''early childhood educator''.

Section 2309, Federal coordination. Section 2309 of the ESEA would direct the Secretaries of Education and Health and Human Services to coordinate activities of this program and other early childhood programs that they administer.

Section 2310, authorization of appropriations. Section 2310 of the ESEA would authorize the appropriation of such sums as may be

necessary for fiscal year 2001 and each of the four succeeding fiscal years to carry out Part C.

Part D—Technical assistance programs

Section 2401, findings. Section 2401 of the ESEA would state the Congressional findings for Part D as follows: (1) sustained, high-quality technical assistance that responds to State and local demand supported by widely disseminated, research-based information on what constitutes high-quality technical assistance and how to identify high-quality technical assistance providers, can enhance the opportunity for all children to achieve to challenging State academic content and student performance standards; (2) an integrated system for acquiring, using, and supplying technical assistance is essential to improving programs and affording all children this opportunity; (3) States, LEAs, tribes, and schools serving students with special needs, such as educationally disadvantaged students and students with limited English proficiency, have clear needs for technical assistance in order to use funds under the ESEA to provide those students with opportunities to achieve to challenging State academic content standards and student performance standards; (4) current technical assistance and dissemination efforts are insufficiently responsive to the needs of States, LEAs, schools, and tribes for help in identifying their particular needs for technical assistance and developing and implementing their own integrated systems for using the various sources of funding for technical assistance activities under the ESEA (as well as other Federal, State, and local resources) to improve teaching and leaning and to implement more effectively the programs authorized by the ESEA; and (5) the Internet and other forms of advanced telecommunications technology are an important means of providing information and assistance in a cost-effective way.

Section 2402, purpose. Section 2402 of the ESEA would state the purpose for Part D as being to create a comprehensive and cohesive, national system of technical assistance and dissemination that is based on market principles in responding to the demand for, and expanding the supply of, high-quality technical assistance. This system would support States, LEAs, tribes, schools, and other recipients of funds under the ESEA in implementing standards-based reform and improving student performance through: (1) the provision of financial support and impartial, research-based information designed to assist States and high-need LEAs to develop and implement their own integrated systems of technical assistance and select high-quality technical assistance activities and providers for use in those systems; (2) the establishment of technical assistance centers in areas that reflect identified national needs, in order to ensure the availability of strong technical assistance in those areas; (3) the integration of all technical assistance and information dissemination activities carried out or supported by the Department of Education in order to ensure comprehensive support for school improvement; (4) the creation of a technology-based system, for disseminating information about ways to improve educational practices throughout the Nation, that reflects input from students, teachers, administrators, and other individuals who participate in, or may be affected by, the Nation's educational system; and (5) national evaluations of effective technical assistance.

Subpart 1—Strengthening the capacity of State and local educational agencies to become effective, informed consumers of technical assistance

Section 2411, purpose. Section 2411 of the ESEA would state the purposes of Subpart 1 of Part D of Title II. Section 2411(1) would state one such purpose as being to provide grants to SEAs and LEAs in order to: (1) respond to the growing demand for increased local decisionmaking in determining technical assistance needs and appropriate technical assistance services; (2) encourage SEAs and LEAs to assess their technical assistance needs and how their various sources of funding for technical assistance under the ESEA and from other sources can best be coordinated to meet those needs (including their needs to collect and analyze data); (3) build the capacity of SEAs and LEAs to use technical assistance effectively and thereby improve their ability to provide the opportunity for all children to achieve to challenging State academic content standards and student performance standards; and (4) assist SEAs and LEAs in acquiring high-quality technical assistance.

Section 2411(2) would state the other purpose of Subpart 1 as being to establish an independent source of consumer information regarding the quality of technical assistance activities and providers, in order to assist SEAs and LEAs, and other consumers of technical assistance that receive funds under the ESEA, in selecting technical assistance activities and providers for their use.

Section 2412, allocation of funds. Section 2412 of the ESEA would describe how funds appropriated to carry out Subpart 1 would be allocated. From those appropriations for any fiscal year, the Secretary would first allocate one percent of the funds to the Bureau of Indian Affairs and the Outlying Areas, in accordance with their respective needs for such funds (as determined by the Secretary) to carry out activities that meet the purposes of Subpart 1. The Secretary would allocate two-thirds of the remaining funds to SEAs in accordance with the formula described in section 2413 and allocate one-third of the remaining funds to the 100 LEAs with the largest number of children counted under section 1124(c) of the ESEA, in accordance with the formula described in section 2416.

Section 2413, formula grants to State educational agencies. Section 2413 of the ESEA would set out the formula for awarding grants to States. The Secretary would allocate funds among the States in proportion to the relative amounts each State would have received for Basic Grants under Subpart 2 of Part A of Title I of the ESEA for the most recent fiscal year, if the Secretary had disregarded the allocations under that subpart to LEAs that are eligible to receive direct grants under new section 2416. This allocation would be adjusted as necessary to ensure that, of the total amount allocated to States and to LEAs under section 2416, the percentage allocated to a State under section 2413 and to localities in the State under section 2416 is at least the percentage used for the small-State minimum under section 1124(d) for the previous fiscal year. The Secretary would also reallocate to other States any amount of any State's allocation under section 2413 of the ESEA that would not be required to carry out the activities for which such amount has been allocated for a fiscal year.

Section 2414, State application. Section 2414 of the ESEA would describe the application requirements for State formula grants. Each State seeking a grant under Subpart 1 would be required to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Each such application would be required to describe: (1) the State's need for, and the capacity of the SEA to provide, technical assistance in implementing programs under the ESEA (including assistance on the collection and analysis of data) and in implementing the State plan or policies for comprehensive, standards-based education reform; (2) how the State will use the funds provided under this subpart to coordinate all its sources of funds for technical assistance, including all sources of such funds under the ESEA, into an integrated system of providing technical assistance to LEAs, and other local recipients of funds under the ESEA, within the State and implement that system; (3) the SEA's plan for using funds from all sources under the ESEA to build its capacity, through the acquisition of outside technical assistance and other means, to provide technical assistance to LEAs and other recipients within the State; (4) how, in carrying out technical assistance activities using funds provided from all sources under the ESEA, the State will assist LEAs and schools in providing high-quality education to all children served under the ESEA to achieve to challenging academic standards, give the highest priority to meeting the needs of high-poverty, low-performing LEAs (taking into consideration any assistance that the LEAs may be receiving under section 2416), and give special consideration to LEAs and other recipients of funds under the ESEA serving rural and isolated areas. The Secretary would be required to approve a State's application for funds if it meets these requirements and is of sufficient quality to meet the purposes of Subpart 1. In determining whether to approve a State's application, the Secretary would be required to take into consideration the advice of peer reviewers, and could not disapprove any application without giving the State notice and opportunity for a hearing.

Section 2415, State uses of funds. Section 2415 of the ESEA would describe the permissible uses of State formula grant funds under Subpart 1. The SEA could use these funds to: (1) build its capacity (and the capacity of other State agencies that implement ESEA programs) to use ESEA technical assistance funds effectively through the acquisition of high-quality technical assistance, and the selection of high-quality technical assistance activities and providers, that meet the technical assistance needs identified by the State; (2) develop, coordinate, and implement an integrated system that provides technical assistance to LEAs and other ESEA recipients within the State, directly, through contracts, or through subgrants to LEAs, or other ESEA recipients of funds, for activities that meet the purposes of Subpart 1, and uses all sources of funds provided for technical assistance, including all ESEA sources; and (3) acquire the technical assistance it needs to increase opportunities for all children to achieve to challenging State academic content standards and student performance standards, and to implement the State's plan or policies for comprehensive standards-based education reform.

A State's integrated system of providing technical assistance could include assistance on such activities as: (1) implementing State standards in the classroom, including aligning instruction, curriculum, assessments, and other aspects of school reform with those standards; (2) collecting, disaggregating, and using data to analyze and improve the implementation, and increase the impact, of educational programs; (3) conducting needs assessments and planning intervention strategies that are aligned with State goals and accountability systems; (4) planning and implementing effective, research-based reform strategies, including schoolwide reforms, and strategies for making schools safe, disciplined, and drug-free; (5) improving the quality of teaching and the ability of teachers to serve students with special needs (including educationally disadvantaged students and students with limited English proficiency); and (6) planning

and implementing strategies to promote opportunities for all children to achieve to challenging State academic content standards and student performance standards.

Section 2416, Grants to large local educational agencies. Section 2416 of the ESEA would describe the formula for providing grants under Subpart 1 to the 100 largest, high-need LEAs. Under section 2416, the Secretary would allocate funds among the LEAs described in section 2412(2)(B) in proportion to the relative amounts allocated to each such LEA for Basic Grants under Subpart 2 of Part A of Title I for the most recent fiscal year. As under the State formula in section 2413, the Secretary would be required to reallocate unused LEA allocations.

Section 2417, local application. Section 2417 of the ESEA would detail the application requirements that the LEAs must meet to receive direct grants under Subpart 1. Each LEA would be required to submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Each application would be required to describe: (1) the LEA's need for technical assistance in implementing ESEA programs (including assistance on the use and analysis of data) and in implementing the State's, or its own, plan or policies, for comprehensive standards-based education reform; (2) how the LEA will use the grant funds to coordinate all its various sources of funds for technical assistance, including all ESEA sources and other sources, into an integrated system for acquiring and using outside technical assistance and other means of building its own capacity to provide the opportunity for all children to achieve to challenging State academic content standards and student performance standards implementing programs under the ESEA, and implement that system. In determining whether to approve a State's application, the Secretary would be required to take into consideration the advice of peer reviewers, and could not disapprove any application without giving the State notice and opportunity for a hearing.

Section 2418, local uses of funds. Section 2418 of the ESEA would describe the ways in which an LEA could use direct grant funds awarded under Subpart 1. The LEA could use those funds to: (1) build its capacity to use ESEA technical assistance funds through the acquisition of high-quality technical assistance and the selection of high-quality technical assistance activities and providers that meet its technical assistance needs; (2) develop, coordinate, and implement an integrated system of providing technical assistance to its schools using all sources of funds provided for technical assistance, including all ESEA sources; and (3) acquire the technical assistance it needs to increase opportunities for all children to achieve to challenging State academic content standards and student performance standards and to implement the State's, or its own, plan or policies for comprehensive standards-based education reform. An LEA may use these funds for technical assistance activities such as those described in section 2415(b) of the ESEA.

Section 2419, equitable services for private schools. Section 2419 of the ESEA would describe how equitable services would be provided to private schools. First, if an SEA or LEA uses funds under Subpart 1 to provide professional development for teachers or school administrators, the SEA or LEA would be required to provide for professional development for teachers or school administrators in private schools located in the same geographic area on an equitable basis. Similarly, if an SEA or LEA uses funds under Subpart 1 to provide information about State educational goals, standards, or assessments, the SEA or LEA would be required to provide that information, upon request to private schools located in the same geographic area. However, if an SEA or LEA is prohibited by law from meeting these requirements, or the Secretary determines the SEA or LEA has substantially failed or is unwilling to comply with these requirements, the Secretary shall waive these requirements and arrange for the provision of professional development services for the private school teachers or school administrators, consistent with applicable State goals and standards and section 11806 of the ESEA.

Section 2419A, consumer information. Section 2419A of the ESEA would require the Secretary to establish, through one or more contracts, an independent source of consumer information regarding the quality and effectiveness of technical assistance activities and providers available to States, LEAs, and other recipients of funds under the ESEA, in selecting technical assistance activities and providers for their use. Such a contract could be awarded for a period of up to five years, and the Secretary could reserve, from the funds appropriated to carry out Subpart 1 for any fiscal year, such sums as the Secretary determines necessary to carry out section 2419A.

Section 2419B, authorization of appropriations. Section 2419B of the ESEA would authorize the appropriation of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out Subpart 1.

Subpart 2—Technical assistance centers serving special needs

Section 2421, general provisions. Section 2421 of the ESEA would set out the general provisions applicable to all technical assistance providers that receive funds under Subpart 2, all consortia that receive funds under proposed Subpart 2 of Part B of Title III of the ESEA (as amended by Title III of the bill), and the educational laboratories, and clearinghouses of the Educational Resources Information Center, supported under the Educational Research, Development, Dissemination, and Improvement Act. Each provider, consortium, laboratory or clearinghouse would be required to: (1) participate in a technical assistance network with the Department and other federally supported technical assistance providers in order to coordinate services and resources; (2) ensure that the services they provide are high-quality, cost-effective, reflect the best information available from research and practice, and are aligned with State and local education reform efforts; (3) in collaboration with SEAs in the States served, educational service agencies (where appropriate), and representatives of high-poverty, low-performing urban and rural LEAs in each State served, develop a targeted approach to providing technical assistance that gives priority to providing intensive, ongoing services to high-poverty LEAs and schools that are most in need of raising student achievement (such as schools identified as in need of improvement under section 1116(c) of the ESEA); (4) cooperate with the Secretary in carrying out activities (including technical assistance activities authorized by other ESEA programs) such as publicly disseminating materials and information that are produced by the Department and are relevant to the purpose, expertise, and mission of the technical assistance provider; and (5) use technology, including electronic dissemination networks and Internet-based resources, in innovative ways to provide high-quality technical assistance.

Section 2422, centers for technical assistance on the needs of special populations. Section 2422 of the ESEA would authorize the Secretary to award grants, contracts, or cooperative agreements to public or private nonprofit entities (or consortia of those entities) to operate two new centers to provide technical assistance to SEAs, LEAs, schools, tribes, community-based organizations, and other recipients of funds under the ESEA concerning how to address the specific linguistic, cultural, or other needs of limited English proficient, migratory, Indian, and Alaska Native students, and educational strategies for enabling those students to achieve to challenging State academic content and performance standards. An entity could receive an award to operate a center only if it demonstrates, to the satisfaction of the Secretary, that it has expertise in these needs and strategies, and an award under section 2422 could be up to 5 years in duration.

Under section 2422(c), each center would be required to maintain appropriate staff expertise, and provide support, training, and assistance to SEAs, tribes, LEAs, schools, and other ESEA funding recipients in meeting the needs of the students in these special populations, including the coordination of other Federal programs and State and local programs, resources, and reforms. Each center would be required to give priority to providing services to schools, including Bureau of Indian Affairs-funded schools, that educate the students described in subsection (a)(1)(A) and have the highest percentages or numbers of children in poverty and the lowest student achievement levels.

Under section 2422(d), the Secretary would be required to: (1) develop a set of performance indicators that assesses whether the work of the centers assists in improving teaching and learning under the ESEA for students in the special populations described; (2) conduct surveys every two years of entities to be served under this section to determine if they are satisfied with the access to, and quality of, the services provided; (3) collect, as part of the Department's reviews of ESEA programs, information about the availability and quality of services provided by the centers, and share that information with the centers; and (4) take whatever steps are reasonable and necessary to ensure that each center performs its responsibilities in a satisfactory manner, which may include termination of an award under this part, the selection of a new center, and any necessary interim arrangements. All of these activities are designed to ensure the quality and effectiveness of the proposed centers.

Section 2422(e) would authorize the appropriation of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out the purposes of section 2422.

Section 2423, parental information and resource centers. Section 2423 of the ESEA would authorize Parental Information and Resource Centers (PIRCs), which are currently authorized under Title IV of the Goals 2000: Educate America Act.

Section 2423(a) would authorize the Secretary to award grants, contracts, or cooperative agreements to nonprofit organizations that serve parents (particularly those organizations that make substantial efforts to reach low-income, minority, or limited English proficient parents) to establish PIRCs. The PIRCs would coordinate the efforts of Federal, State, and local parent education and family involvement initiatives. In addition, the PIRCs would provide training, information, and support to SEAs, LEAs (particularly LEAs with high-poverty and low-performing schools), schools (particularly high-poverty and low-performing schools), and organizations that support family-school partnerships (such as parent teacher organizations). In making awards, the Secretary would be required, to the

greatest extent possible, to ensure that each State is served by at least one award recipient. Currently, there are PIRCs in all 50 States. The District of Columbia, Puerto Rico, and each territory.

Section 2423(b) would establish the application requirements for the PIRCs. Applicants desiring assistance under section 2423 would be required to submit an application at such time, and in such manner, as the Secretary shall determine. At a minimum, the application would include: a description of the applicant's capacity and expertise to implement a grant under section 2423; a description of how the applicant would use its award to help SEAs and LEAs, schools, and non-profit organizations in the State (particularly those organizations that make substantial efforts to reach a large number or percentage of low-income minority, or limited English proficient children) to: (1) identify barriers to parent or family involvement in schools, and strategies to overcome those barriers; and (2) implement high-quality parent education and family involvement programs that improve the capacity of parents to participate more effectively in the education of their children, support the effective implementation of research-based instructional activities that support parents and families in promoting early language and literacy development and support schools in promoting meaningful parent and family involvement; a description of the applicant's plan to disseminate information on high-quality parent education and family involvement programs to LEAs, schools, and non-profit organizations that serve parents in the State; a description of how the applicant would coordinate its activities with the activities of other Federal, State, and local parent education and family involvement programs and with national, State and local organizations that provide parents and families with training, information, and support on how to help their children prepare for success in school and achieve to high academic standards; a description of how the applicant would use technology, particularly the Worldwide Web, to disseminate information; and a description of the applicant's goals for the center, as well as baseline indicators for each of the goals, a timeline for achieving the goals, and interim measures of success toward achieving the goals.

Section 2423(c) would limit the Federal share to not more than 75 percent of the cost of a PIRC. The non-Federal share may be in cash or in kind. Under current law, a grant recipient must provide a match in each fiscal year after the first year of the grant, but does not specify the amount of the match.

Section 2423(d)(1) would establish the allowable uses for program funds. Recipients would be required to use their awards to support SEAs and LEAs, schools, and non-profit organizations in implementing programs that provide parents with training, information, and support on how to help their children achieve to high academic standards. Such activities could include: assistance in the implementation of programs that support parents and families in promoting early language and literacy development and prepare children to enter school ready to succeed in school; assistance in developing networks and other strategies to support the use of research-based, proven models of parent education and family involvement, including the ''Parents as Teachers'' and ''Home Instruction Program for Preschool Youngsters'' programs, to promote children's development and learning; assistance in preparing parents to communicate more effectively with teachers and other professional educators and support staff, and providing a means for on-going, meaningful communication between parents and schools; assistance in developing and implementing parent education and family involvement programs that increase parental knowledge about standards-based school reform; and disseminating information on programs, resources, and services available at the national, State, and local levels that support parent and family involvement in the education of their school-age children.

Section 2423(d)(2) would require that each recipient use at least 75 percent of its award to support activities that serve areas with large numbers or concentrations of low-income families. Currently, recipients are required to use 50 percent of their funds to provide services to low-income areas.

Section 2423(e) would authorize the Secretary to reserve up to 5 percent of the funds appropriated for section 2423 to provide technical assistance to the PIRCs and to carry out evaluations of program activities.

Section 2423(f) of the ESEA would set out three definitions, taken from current law, for purposes of section 2423. The term ''parent education'' would be defined to include parent support activities, the provision of resource materials on child development, parent-child learning activities and child rearing issues, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home.

The term ''Parents as Teachers program'' would be defined as a voluntary childhood parent education program that: is designed to provide all parents of children from birth through age 5 with the information and support that such parents need to give their child a solid foundation for school success; is based on the Missouri Parents as Teachers model, with the philosophy that parents are their child's first and most influential teachers; provides regularly scheduled personal visits with families by certified parent educators; provides regularly scheduled developmental screenings; and provides linkage with other resources within the community to provide services that parents may want and need, except that such services are beyond the scope of the Parents As Teachers program.

The term ''Home Instruction for Preschool Youngsters program'' would be defined as a voluntary early-learning program for parents with one or more children between the ages of 3 through 5 that provides support, training, and appropriate educational materials necessary for parents to implement a school-readiness, home instruction program for their child. Such a program also includes: group meetings with other parents participating in the program; individual and group learning experiences with the parent and child; provision of resource materials on child development and parent-child learning activities; and other activities that enable the parent to improve learning in the home.

Section 2423(g) would require each PIRC to submit an annual report on its activities. The report would include at least: the number and types of activities supported by the recipient with program funds; activities supported by the recipient that served areas with high numbers or concentrations of low-income families; and the progress made by the PIRC in achieving the goals included in its application.

Section 2423(h) would prohibit any individual from being required to participate in any parent education program or developmental screening supported by program funds. In addition, PIRCs would be prohibited from infringing on the right of a parent to direct the education of their children. Finally, the requirements of section 444(c) of the General Education Provisions Act, relating to procedures protecting the rights of privacy of students and their families in connection with surveys or data-gathering activities, would apply to PIRCs. All of these protections would be continued from current law.

Section 2423(i) would authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out the PIRC program.

Section 2424, Eisenhower Regional Mathematics and Science Education Consortia. Section 2424 of the ESEA would authorize the establishment and operation of the Eisenhower Regional Mathematics and Science Education Consortia. The Eisenhower Consortia are currently authorized under Part C of Title XIII of the ESEA. In addition to updating current law to eliminate outdated or unnecessary provisions and making structural changes, section 2424 would eliminate some of the current authorized uses of funds for the Eisenhower Consortia in order to focus the uses of funds more closely on the program's core purposes. Section 2424 would also authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out the Eisenhower Consortia.

Subpart 3—Technology-based technical assistance information dissemination

Section 2431, Web-based and other information dissemination. Section 2431 of the ESEA would authorize the Secretary to carry out, through grants, contracts, or cooperative agreements, a national system, through the Worldwide Web and other advanced telecommunications technologies, that supports interactive information sharing and dissemination about ways to improve educational practices throughout the Nation. In designing and implementing this proposed information dissemination system, the Secretary would be required to create opportunities for the continuing input of students, teachers, administrators, and other individuals who participate in, or may be affected by, the Nation's educational system.

The proposed new information dissemination would include information on: (1) stimulating instructional materials that are aligned with challenging content standards; and (2) successful and innovative practices in instruction, professional development, challenging academic content and student performance standards, assessments, effective school management, and such other areas as the Secretary determines are appropriate.

Under section 2431(a)(3)(A), the Secretary could require the technical assistance providers funded under proposed Part D of Title II of the ESEA (as amended by Title III of the bill), or the educational laboratories and clearinghouses of the Educational Resources Information Center supported under the Educational Research, Development, Dissemination, and Improvement Act, to: (1) provide information (including information on practices employed in the regions or States served by the providers) for use in the proposed information dissemination system; (2) coordinate their activities in order to ensure a unified system of technical assistance; or (3) otherwise participate in the proposed information dissemination system. Under section 2431(a)(3)(B), the Secretary would be required to ensure that these dissemination activities are integrated with, and do not duplicate, the dissemination activities of the Office of Educational Research and Improvement (OERI), and that the public has access, through this system, to the latest research, statistics, and other information supported by, or available from, OERI.

Section 2431(b) would authorize the Secretary to carry out additional activities, using advanced telecommunications technologies where appropriate, to assist LEAs,

SEAs, tribes, and other ESEA recipients in meeting the requirements of the Government Performance and Results Act of 1993. This assistance could include information on measuring and benchmarking program performance and student outcomes.

Section 2432 would authorize the appropriate of such sums as may be necessary for fiscal years 2001 through 2005 to carry out Subpart 3.

Subpart 4—National evaluation activities

Section 2441, national evaluation activities. Section 2441 of the ESEA would require the Secretary to conduct, directly or through grants, contracts, or cooperative agreements, such activities as the Secretary determines necessary to: (1) determine what constitutes effective technical assistance; (2) evaluate the effectiveness of the technical assistance and dissemination programs authorized by, or assisted under, Part E of Title II of the ESEA, and the educational laboratories, and clearinghouses of the Educational Resources Information Center, supported under the Educational Research, Development, Dissemination, and Improvement Act, (notwithstanding any other provision of such Act); and (3) increase the effectiveness of those programs.

TITLE III-TECHNOLOGY FOR EDUCATION

Section 301. Short Title. Section 301 of the bill would amend section 3101 of the ESEA to change the short title for Title III of the ESEA to the ''Technology For Education Act.''

Section 302. *Findings.* Section 302 of the bill would update the findings in section 3111 of the ESEA to reflect progress that has been made in achieving the four national technology goals and identify those areas in which progress still needs to be made.

Section 303. Statement of Purpose. Section 303 of the bill would amend section 3112 of the ESEA to better align the purposes of Title III of the ESEA to the national technology goals and the Department's goals for the use of educational technology to improve teaching and learning. The purposes for this title are to: (1) help provide all classrooms with access to educational technology through support for the acquisition of advanced multimedia computers, Internet connections, and other technologies; (2) help ensure access to, and effective use of, educational technology in all classrooms through the provision of sustained and intensive, high-quality professional development that improves teachers' capability to integrate educational technology effectively into their classrooms by actively engaging students and teachers in the use of technology; (3) help improve the capability of teachers to design and construct new learning experiences using technology, and actively engage students in that design and construction; (4) support efforts by SEAs and LEAs to create learning environments designed to prepare students to achieve to challenging State academic content and performance standards through the use of research-based teaching practices and advanced technologies, (5) support technical assistance to State educational agencies, local educational agencies, and communities to to help them use technology-based resources and information systems to support school reform and meet the needs of students and teachers; (6) support the development of applications that make use of such technologies as advanced telecommunications, hand-held devices, web-based learning resources, distance learning networks, and modeling and simulation software; (7) support Federal partnerships with business and industry to realize more rapidly the potential of digital communications to expand the scope of, and opportunities for, learning; (8) support evaluation and research on the effective use of technology in preparing all students to achieve to challenging State academic content and performance standards, and the impact of technology and performance standards, and the impact of technology on teaching and learning; (9) provide national leadership to stimulate and coordinate public and private efforts, at the national, State and local levels, that support the development and integration of advanced technologies and applications to improve school planning and classroom instruction; (10) support the development, or redesign, of teacher preparation programs to enable prospective teachers to integrate the use of technology in teaching and learning; (11) increase the capacity of State and local educational agencies to improve student achievement, particularly that of students in high-poverty, low-performing schools; (12) promote the formation of partnerships and consortia to stimulate the development of; and new uses for, technology in teaching and learning; (13) support the creation or expansion of community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training; and (14) help to ensure that technology is accessible to, and usable by, all students, particularly students with disabilities or limited English proficiency.

Section 304. *Prohibition Against Supplanting.* Section 304 of the bill would repeal section 3113 of the ESEA, which currently contains the definitions applicable to Title III of the ESEA. Definitions would instead be placed in the part of the title to which they apply. In its place, section 304 of the bill would add a new section 3113 to the ESEA that would require a recipient of funds awarded under this title to use that award only to supplement the amount of funds or resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the purposes of the programs authorized under Title III of the ESEA, and not to supplant those non-Federal funds or resources.

Part A—Federal leadership and national activities

Section 311. Structure of Part. Section 311 of the bill would make technical changes to Title III of the ESEA to eliminate the current structure of Part A of Title III of the ESEA and add a new heading for Part A, Federal Leadership and National Activities. This section also would repeal the current Product Development program, which has never received funding.

Section 312. National Long-Range Technology Plan. Section 312 of the bill would amend section 3121 of the ESEA, which currently requires the Secretary to publish a national long-range technology plan within one year of the enactment of the Improving America's School Act of 1994. Instead, section 312(1) of the bill would amend section 3121(a) of the ESEA to require the Secretary to update the national long-range technology plan within one year of the enactment of the bill and to broadly disseminate the updated plan.

Section 312(2) of the bill would amend section 3121(c) of the ESEA, which establishes the requirements for the national long-range technology plan, by adding the requirements that the plan describe how the Secretary will: promote the full integration of technology into learning, including the creation of new instructional opportunities through access to challenging courses and information that would otherwise not have been available, and independent learning opportunities for students through technology; encourage the creation of opportunities for teachers to develop, through the use of technology, their own networks and resources for sustained and intensive, high-quality professional development; and encourage the commercial development of effective, high-quality, cost-competitive educational technology and software.

Section 313. Federal Leadership. Section 313 of the bill would amend section 3122 of the ESEA, which authorizes a program of Federal leadership in promoting the use of technology in education. Section 313(1) of the bill would amend 3122(a) of the ESEA by eliminating a reference to the United States National Commission on Libraries and Information Systems, and replacing it with the White House Office of Science and Technology Policy, on the list of agencies with which the Secretary consults under this program.

Section 313(2) of the bill would amend section 3122(b)(1) of the ESEA by removing the reference to the Goals 2000: Educate America Act, which would be repealed by another section of this bill. The National Education Goals would be renamed America's Education Goals and added to the ESEA by section 2 of the bill.

Section 313(3) of the bill would amend current 3122(c) of the ESEA by eliminating the authority for the Secretary to undertake activities designed to facilitate maximum interoperability of educational technologies. Instead, the Secretary would be authorized to develop a national repository of information on the effective uses of educational technology, including its use of sustained and intensive, high-quality professional development, and the dissemination of that information nationwide.

Section 314. Repeals; Redesignations; Authorization of Appropriations. Section 314 of the bill would repeal sections 3114 (Authorization of Appropriations), 3115 (Limitation on Costs), and 3123 (Study, Evaluation, and Report of Funding Alternatives) of the ESEA. As amended by the bill, an authorization of appropriations section would be included in the part of Title III of the ESEA to which it applies. These changes would also eliminate the current statutory provision that requires that funds be used for a discretionary grant program when appropriations for current Part A of Title III of the ESEA are less than $75 million, and for a State formula grant program when the appropriation exceeds that amount. This provision must currently be overridden in appropriation language each year in order to operate both the Technology Literacy Challenge Fund and the Technology Innovation Challenge Grants program.

Section 314(b) of the bill would redesignate several sections of the ESEA, and would add new sections 3101 and 3104 of the ESEA. Proposed new section 3101 of the ESEA (''National Evaluation of Education Technology'') would require the Secretary to develop and carry out a strategy for an ongoing evaluation of existing and anticipated future uses of educational technology. This national evaluation strategy would be designed to better inform the Federal role in supporting the use of educational technology, in stimulating reform and innovation in teaching and learning with technology, and in advancing the development of more advanced and new types and applications of such technology. As part of this evaluation strategy, the Secretary would be authorized to: conduct long-term controlled studies on the effectiveness of the uses of educational technology; convene panels of experts to identify uses of educational technology that hold the greatest promise for improving teaching and learning, assist the Secretary with the review and assessment of the progress and effectiveness of projects that are funded under this title, and identify barriers to the commercial development of effective, high-quality, cost-competitive educational technology

and software; conduct evaluations and applied research studies that examine how students learn using educational technology, whether singly or in groups, and across age groups, student populations (including students with special needs, such as students with limited English proficiency and students with disabilities) and settings, and the characteristics of classrooms and other educational settings that use educational technology effectively; collaborate with other Federal agencies that support research on, and evaluation of, the use of network technology in educational settings; and carry out such other activities as the Secretary determines appropriate. The Secretary would be authorized to use up to 4 percent of the funds appropriated to carry out Title III of the ESEA for any fiscal year to carry out national evaluation strategy in that year.

Proposed new section 3104 of the ESEA (''Authorization of Appropriations'') would authorize the appropriation of such sums as may be necessary to carry out the national evaluation strategy, national plan, and Federal Leadership activities for fiscal years 2001 through 2005.

PART B—Special projects

Section 321. Repeals; Redesignations; New Part. Section 321 of the bill would make several structural and conforming changes to Title III of the ESEA. Section 321(a) of the bill would repeal Part B, the Star Schools Program, and Part E, the Elementary Mathematics and Science Equipment Program. Section 321(b) of the bill would redesignate current Part C of Title III of the ESEA, Ready-To-Learn Television, as Subpart 2 of Part B of Title III of the ESEA, and redesignate current Part D of Title III of the ESEA, Telecommunications Demonstration Project for Mathematics as Subpart 3 of Part B of Title III of the ESEA.

Section 321(d) of the bill would add a new Subpart 1, Next-Generation Technology Innovation Awards, to Part B of Title III of the ESEA.

Proposed new section 3211 of the ESEA (''Purpose; Program Authority'') would state, in subsection (a), that it is the purpose of the program to: (1) expand the knowledge base about the use of the next generation of advanced computers and telecommunications in delivering new applications for teaching and learning; (2) address questions of national significance about the next generation of technology and its use to improve teaching and learning; and (3) develop, for wide-scale adoption by SEAs and LEAs, models of innovative and effective applications in teaching and learning of technology, such as high-quality video, voice recognition devices, modeling and simulation software (particularly web-based software and intelligent tutoring), hand-held devices, and virtual reality and wireless technologies, that are aligned with challenging State academic content and performance standards. These purposes would focus the projects funded under this proposed new subpart on developing ''cutting edge'' applications of educational technology.

Proposed new section 3211(b) of the ESEA would authorize the Secretary, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants. Proposed new section 3211(c) of the bill would state that those awards could be made for a period of not more than five years.

Proposed new section 3212 of the ESEA (''Eligibility'') would specify the eligibility and application requirements for the proposed new program. Under proposed new section 3212(a) of the ESEA, in order to be eligible to receive an award an applicant would have to be a consortium that includes: (1) at least one SEA or LEA; and (2) at least one institution of higher education, for-profit business, museum, library, other public or private entity with a particular expertise that would assist in carrying out the purposes of the proposed new subpart.

Under proposed new section 3212(b) of the ESEA, applicants would be required to provide a description of the proposed project and how it would carry out the purposes of the program, and a detailed plan for the independent evaluation of the program, which must include benchmarks to monitor progress toward the specific project objectives.

Proposed new section 3212(c) of the ESEA would allow the Secretary, when making awards, to set one or more priorities. Priorities could be provided for: (1) applications from consortia that consist of particular types of the members described in proposed new section 3212(a) of the ESEA; (2) projects that develop innovative models of effective use of educational technology, including the development of distance learning networks, software (including software deliverable through the Internet), and online-learning resources; (3) projects serving more than one State and involving large-scale innovations in the use of technology in education; (4) projects that develop innovative models that serve traditionally underserved populations, including low-income students, students with disabilities, and students with limited English proficiency; (5) projects in which applicants provide substantial financial and other resources to achieve the goals of the project; and (6) projects that develop innovative models for using electronic networks to provide challenging courses, such as Advanced Placement courses.

Proposed new section 3213 of the ESEA (''Uses of Funds'') would require award recipients to use their program funds to develop new applications of educational technologies and telecommunications to support school reform efforts, such as wireless and web-based telecommunications, hand-held devices, web-based learning resources, distributed learning environments (including distance learning networks), and the development of educational software and other applications. In addition, recipients would also be required to use program funds to carry out activities consistent with the purposes of the proposed new subpart, such as: (1) developing innovative models for improving teachers' ability to integrate technology effectively into course curriculum, through sustained and intensive, high-quality professional development; (2) developing high-quality, standards-based, digital content, including multimedia software, digital video, and web-based resources; (3) using telecommunications, and other technologies, to make programs accessible to students with special needs (such as low-income students, students with disabilities, students in remote areas, and students with limited English proficiency) through such activities as using technology to support mentoring; (4) providing classroom and extracurricular opportunities for female students to explore the different uses of technology; (5) promoting school-family partnerships, which may include services for adults and families, particularly parent education programs that provide parents with training, information, and support on how to help their children achieve to high academic standards; (6) acquiring connectivity linkages, resources, distance learning networks, and services, including hardware and software, as needed to accomplish the goals of the project; and (7) collaborating with other Department of Education and Federal information technology research and development programs.

Proposed new section 3214 of the ESEA (''Evaluation'') would authorize the Secretary to: (1) develop tools and provide resources for recipients of funds under the proposed new subpart to evaluate their activities; (2) provide technical assistance to assist recipients in evaluating their projects; (3) conduct independent evaluations of the activities assisted under the proposed new subpart; and (4) disseminate findings and methodologies from evaluations assisted under the proposed new subpart, or other information obtained from such projects that would promote the design and implementation of effective models for evaluating the impact of educational technology on teaching and learning. This evaluation authority would enable the Department to provide projects with tools for evaluation and disseminate the findings from the individual project evaluations.

Proposed new section 3215 of the ESEA (''Authorization of Appropriations'') would authorize the appropriation of such sums as may be necessary to carry out this part of fiscal years 2001 through 2005.

Section 322. Ready To Learn Digital Television. Section 322 of the bill would amend the subpart heading for Subpart 2 of Part B of Title III of the ESEA (as redesignated by section 321(b) of the bill) to reflect advances in technology by replacing the reference to ''television'' with a reference to ''digital television.''

In addition, section 322 of the bill would amend the provisions of this subpart to reflect the redesignations made by section 321(c) of the bill, and to authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.

Section 323. Telecommunications Program for Professional Development in the Core Content Areas. Section 323(a) of the bill would amend the heading for Subpart 3 of Part B of Title III (as redesignated by section 321(b) of the bill) from the current ''Telecommunications Demonstration Project for Mathematics'' to ''Telecommunications Program for Professional Development in the Core Content Areas.''

Section 323(b) of the bill would amend section 3231 of the ESEA (as redesignated by section 321(c) of the bill), which currently states the purpose of this part as carrying out a national telecommunications-based demonstration project to improve the teaching of mathematics and to assist elementary and secondary school teachers in preparing all students for achieving State content standards. As amended by section 323(b) of the bill, this program would no longer be only a demonstration project, and its purposes would be expanded to assist elementary and secondary school teachers in preparing all students to achieve to challenging State academic content and performance standards through a national telecommunications-based program to improve teaching in all core content areas, not just mathematics.

Section 323(c) of the bill would amend the application requirements in section 3232 of the ESEA (as redesignated by section 321(c) of the bill) to eliminate references to the program as a demonstration project, update the references to technology, expand the types of entities with which recipients would be required to coordinate their efforts, and make conforming changes.

Section 323(d) of the bill would amend section 3233 of the ESEA (as redesignated by section 321(c) of the bill) to authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.

Section 324. Community Technology Centers. Section 324 of the bill would add a new Subpart 4, Community Technology Centers, to Part B of Title III of the ESEA.

Proposed new section 3241 of the ESEA (''Purpose; Program Authority'') would state, in subsection (a), that the purpose of this proposed new subpart is to assist eligible applicants to create or expand community technology centers that will provide disadvantaged residents of economically distressed urban and rural communities with access to information technology and related training and provide technical assistance and support to community technology centers.

Proposed new section 3241(b) of the ESEA would authorize the Secretary, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants to carry out the purposes of the proposed new subpart. The Secretary could make these awards for a period of not more than three years.

Proposed new section 3242 of the ESEA (''Eligibility and Application Requirements'') would set out the eligibility and application requirements for the proposed new subpart. Under proposed new section 3242(a) of the ESEA, to be eligible an applicant must: (1) have the capacity to expand significantly access to computers and related services for disadvantaged residents of economically distressed urban and rural communities (who would otherwise be denied such access); and (2) be an entity such as a foundation, museum, library, for-profit business, public or private nonprofit organizations, community-based organization, an institution of higher education, an SEA, and LEA, or a consortium of these entities.

Under the application requirements in proposed new section 3242(b) of the ESEA, an applicant would be required to submit an application to the Secretary at such time, and containing such information, as the Secretary may require, and that application must include: (1) a description of the proposed project, including a description of the magnitude of the need for the services and how the project would expand access to information technology and related services to disadvantaged residents of an economically distressed urban or rural community; (2) a demonstration of the commitment, including the financial commitment, of entities such as institutions, organizations, business and other groups in the community that will provide support for the creation, expansion, and continuation of the proposed project, and the extent to which the proposed project establishes linkages with other appropriate agencies, efforts, and organizations providing services to disadvantaged residents of an economically distressed urban or rural community; (3) a description of how the proposed project would be sustained once the Federal funds awarded under this subpart end; and (4) a plan for the evaluation of the program, including benchmarks to monitor progress toward specific project objectives.

Under proposed new section 3242(c) of the ESEA, the Federal share of the cost of any project funded under the proposed new subpart could not exceed 50 percent, and the non-Federal share of such project may be in cash or in kind, fairly evaluated, including services.

Proposed new section 3243 of the ESEA (''Uses of Funds'') would describe the required and permissible uses of funds awarded under the proposed new subpart. Under proposed new section 3243(a) of the ESEA, a recipient would be required to use these funds for creating or expanding community technology centers that expand access to information technology and related training for disadvantaged residents of distressed urban or rural communities, and evaluating the effectiveness of the project.

Under proposed new section 3243(b) of the ESEA, a recipient could use funds awarded under the proposed new subpart for activities that it described in its application that carry out the purposes of this subpart such as: (1) supporting a center coordinator, and staff, to supervise instruction and build community partnerships; (2) acquiring equipment, networking capabilities, and infrastructure to carry out the project; and (3) developing and providing services and activities for community residents that provide access to computers, information technology, and the use of such technology in support of pre-school preparation, academic achievement, lifelong learning, and workforce development job preparation activities.

Proposed new section 3244 of the Act (''Authorization of Appropriations'') would authorize the appropriation of such sums as may be necessary to carry out the proposed new subpart for each of the fiscal years 2001 through 2005.

Part C—Preparing tomorrow's teachers to use technology

Section 331. New Part. Section 331 of the bill would amend Title III of the ESEA by adding a new Part C, Preparing Tomorrow's Teachers To Use Technology.

Proposed new section 3301 of the ESEA (''Purpose; Program Authority'') would state, in subsection (a), that the purpose of the proposed new part is to assist consortia of public and private entities in carrying out programs that prepare prospective teachers to use advanced technology to foster learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards.

Proposed new section 3301(b) of the ESEA would authorize the Secretary, through the Office of Educational Technology, to award grants, contracts, or cooperative agreements on a competitive basis to eligible applicants in order to assist them in developing or redesigning teacher preparation programs to enable prospective teachers to use technology effectively in their classrooms. The Secretary could make these awards for a period of not more than five years.

Proposed new section 3302 of the ESEA (''Eligibility'') would detail the eligibility, application, and matching requirements for the proposed new part. To be eligible under proposed new section 3302(a), an applicant must be a consortium that includes at least one institution of higher education that offers a baccalaureate degree and prepares teachers for their initial entry into teaching, and at least one SEA or LEA. In addition, each consortium must include at least one of the following entities: an institution of higher education (other than the institution described above); a school or department of education at an institution of higher education; a school or college of arts and sciences at an institution of higher education; a private elementary or secondary school; or a professional association, foundation, museum, library, for-profit business, public or private nonprofit organization, community-based organization, or other entity with the capacity to contribute to the technology-related reform of teacher preparation programs.

The application requirements in proposed new section 3302(b) of the ESEA would require an applicant to submit an application to the Secretary at such time, and containing such information, as the Secretary may require, and that application would be required to include: a description of the proposed project, including how the project would ensure that individuals participating in the project would be prepared to use technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; a demonstration of the commitment, including the financial commitment, of each of the members of the consortium to the proposed project; a demonstration of the active support of the leadership of each member of the consortium for the proposed project; a description of how each member of the consortium would be included in project activities; a description of how the proposed project would be sustained once the Federal funds awarded under this part end; and a plan for the evaluation of the program, which shall include benchmarks to monitor progress toward specific project objectives.

Proposed new section 3302(c)(1) of the ESEA would limit the Federal share of any project funded under this part to no more than 50 percent of the cost of the project. The non-Federal share may be in cash or in kind, except as required under proposed new section 3302(c)(2) of the ESEA, which would limit, to not more than 10 percent of the funds awarded for a project under this part, the amount that may be used to acquire equipment, networking capabilities or infrastructure, and would require that the non-Federal share of the cost of any such acquisition be in cash.

Proposed new section 3303 of the ESEA (''Uses of Funds'') would establish the required and permissible uses of funds awarded under the proposed new part. Under proposed new section 3303(a) of the ESEA, recipients would be required to: create programs that enable prospective teachers to use advanced technology to create learning environments conducive to preparing all students to achieve to challenging State and local content and student performance standards; and evaluate the effectiveness of the project.

Under proposed new section 3303(b), recipients would be permitted to use funds for activities such as: developing and implementing high-quality teacher preparation programs that enable educators to learn the full range of resources that can be accessed through the use of technology, integrate a variety of technologies into the classroom in order to expand students' knowledge, evaluate educational technologies and their potential for use in instruction, and help students develop their own digital learning environments; developing alternative teacher development paths that provide elementary and secondary schools with well-prepared, technology-proficient educators; developing performance-based standards and aligned assessments to measure the capacity of prospective teachers to use technology effectively in their classrooms; providing technical assistance to other teacher preparation programs; developing and disseminating resources and information in order to assist institutions of higher education to prepare teachers to use technology effectively in their classrooms; and acquiring equipment, networking capabilities, and infrastructure to carry out the project.

Proposed new section 3304 of the ESEA (''Authorization of Appropriations'') would authorize the appropriation of such sums as may be necessary to carry out the proposed new part for each of the fiscal years 2001 through 2005.

Part D—Regional, State, and local educational technology resources

Section 341. Repeal; New Part. Section 341 of the bill would add a new Part D, Regional, State, and Local Educational Technology Resources, to Title III of the ESEA that would consist of two subparts: Subpart 1, the Technology Literacy Challenge Fund (TLCF), and Subpart 2, Regional Technology in Education Consortia (RTECs).

Proposed new section 3411 of the ESEA (''Purpose'') would state that it is the purpose of the TLCF to increase the capacity of

SEAs and LEAs to improve student achievement, particularly that of students in high-poverty, low-performing schools, by supporting State and local efforts to: (1) make effective use of new technologies and technology applications, networks, and electronic resources; (2) utilize research-based teaching practices that are linked to advanced technologies; and (3) promote sustained and intensive, high-quality professional development that increases teacher capacity to create improved learning environments through the integration of educational technology into instruction. These purposes would focus program efforts on activities that have been proven to improve teaching and learning.

Section 342. Allotment and Reallotment. Section 342 of the bill would amend section 3131(a)(2) of the ESEA, which pertains to the allotment and reallotment of TLCF funds. First, for purposes of section 3131 of the ESEA, ''State educational agency'' would be defined to include the Bureau of Indian Affairs (BIA). This change is necessary because the current definition is in section 3113 of the ESEA, which is proposed for repeal in section 3004 of the bill.

Next, section 342 of the bill would amend section 3131(a)(2) of the ESEA by modifying the minimum TLCF State grant amount in two ways. First, the minimum amount would be the lesser of one-half of one percent of the appropriations for TLCF for a fiscal year, or $2,250,000. Second, the new minimum amount would apply in the aggregate to the amount received by the Outlying Areas. Currently, this aggregate minimum amount for the Outlying Areas is accomplished through appropriations language each year.

Section 343. Technology Literacy Challenge Fund. Section 343 of the bill would amend current 3132(a)(2) of the ESEA to require an SEA to award not less than 95 percent of its allocation to eligible local applicants (from which up to 2 percent of its total allocation could be used for planning subgrants to LEAs that need assistance in developing local technology plans). An SEA could use the remainder of its allocation for administrative costs and technical assistance. This change is necessary because section 314 of the bill would repeal current 3115 of the ESEA, which limited the amount of any grant that could be used for administrative expenses.

Section 343 of the bill would also require an SEA to provide a priority for eligible local applicants that are partnerships. (''Eligible local applicant'' is defined in proposed new section 3417 of the ESEA, as added by section 348 of the bill.)

Section 343(3) of the bill would amend 3132(b)(2) of the ESEA, which currently requires SEAs to provide technical assistance in developing applications for program funds to LEAs with high concentrations of poor children and a demonstrated need for such assistance. In addition to this requirement, the amended section 3132(b)(2) of the ESEA would also require that an SEA provide an eligible local applicant with assistance in forming partnerships to apply for program funds and developing performance indicators.

Section 344. State Application. Section 344 of the bill would completely revise the application requirements for the State formula grant program in section 3133 of the ESEA. As revised, section 3133 of the ESEA would require an SEA to: (1) provide a new or updated State technology plan that is aligned with the State plan or policies for comprehensive standards-based education reform; (2) describe how I will meet the national technology goals; (3) describe its long-term strategies for financing educational technology, including how it would use other Federal and non-Federal funds, including E-Rate funds; (4) describe and explain its criteria for identifying an LEA as high-poverty and having a substantial need for technology; (5) describe its goals for using educational technology to improve student achievement; (6) establish performance indicators for each of its goals described in the plan, baseline performance data for the indicators, a timeline for achieving the goals, and interim measures of success toward achieving the goals; (7) describe how it would ensure that grants awarded under this subpart are of sufficient size, scope, and quality to meet the purposes of this subpart effectively; (8) describe how it would provide technical assistance to eligible local applicants and its capacity for providing that assistance; (9) how it would ensure that educational technology is accessible to, and usable by, all students, including students with special needs, such as students who have disabilities or limited English proficiency; and (10) how it would evaluate its activities under the plan. The application requirements would better align the information required from States with the purposes for the program.

Section 345. Local Uses of Funds. Section 345 of the bill would amend section 3134 of the ESEA, which describes the local uses of funds under the TLCF. These local uses of funds would be: adapting or expanding existing and new applications of technology; providing sustained and intensive, high-quality professional development in the integration of advanced technologies into curriculum; enabling teachers to use the Internet to communicate with other teachers and to retrieve web-based learning resources; using technology to collect, manage, and analyze data for school improvement; acquiring advanced technologies with classroom applications; acquiring wiring and access to advanced telecommunications; using web-based learning resources, including those that provide access to challenging courses such as Advanced Placement courses; and assisting schools to use technology to promote parent and family involvement, and support communications between family and school.

Section 346. Local Applications. Section 346 of the bill would amend section 3135 of the ESEA to make an ''eligible local applicant,'' rather than an LEA, the entity eligible to apply for TLCF subgrants. This change is aligned with the proposed change to target program funds to LEAs with large numbers or percentages of poor children and a demonstrated need for technology, or a consortium that includes such an LEA. Eligible local applicants that are partnerships would also be required to describe the membership of the partnership, their respective roles, and their respective contributions to improving the capacity of the LEA.

In addition to making several updating and conforming changes, section 346 of the bill would also amend section 3135 of the ESEA regarding what must be included in the subgrant application. An applicant would be required to describe how the applicant would use its funds to improve student achievement by making effective use of new technologies, networks, and electronic learning resources, using research-based teaching practices that are linked to advanced technologies, and promoting sustained and intensive, high-quality professional development. This requirement would focus local efforts on activities that have demonstrated the greatest potential for improving teaching and learning.

In addition, an applicant would also be required to describe: its goals for educational technology, as well as timelines, benchmarks, and indicators of success for achieving the goals; its plan for ensuring that all teachers are prepared to use technology to create improved classroom learning environments; the administrative and technical support it would provide to schools; its plan for financing its local technology plan; how it would use technology to promote communication between teachers; how it would use technology to meet the needs of students with special needs, such as students with disabilities or limited English proficiency; how it will involve parents, public libraries, and business and community leaders in the development of the local technology plan; and if the applicant is a partnership, the members of the partnership and their respective roles and contributions.

Finally, an applicant would be required to provide an assurance that, before using any funds received under this subpart for acquiring wiring or advanced telecommunications, it would use all the resources available to it through the E-Rate. This would ensure that districts were using their E-Rate funds, which have more limited uses than TLCF funds, for wiring and telecommunications fees before using TLCF funds for those purposes.

Section 347. Repeals; Conforming Changes; Redesignations. Section 347 of the bill would repeal current sections 3136 and 3137 of the ESEA. Section 3136 of the ESEA currently authorizes the National Challenge Grants for Technology in Education, and its purposes would be accomplished under the Next-Generation Technology Innovation Awards program proposed as the new Subpart 1 of Part C of Title III of the ESEA. Section 3137 of the ESEA contains now outdated evaluation requirements. Section 347 of the bill would also make several conforming changes to, and redesignations of, provisions in Title III of the ESEA.

Section 348. Definitions; Authorization of Appropriations. Section 348 of the bill would add two new sections to Title III of the ESEA. Proposed new section 3417 of the ESEA (''Definitions'') would define ''eligible local applicant'' and ''low-performing school.'' The definitions would be included to better target funds on high-poverty schools with the greatest need for educational technology.

An ''eligible local applicant'' would be defined as: (1) an LEA with high numbers or percentages of children from households living in poverty, that includes one or more low-performing schools, and has a substantial need for educational technology; or (2) a partnership that includes at least one LEA that meets those requirements and at least one LEA that can demonstrate that teachers in schools served by that agency are using technology effectively in their classrooms; institution of higher education; for-profit organization that develops, designs, manufactures, or produces technology products or services, or has substantial expertise in the application of technology; or public or private non-profit organization with demonstrated experience in the application of educational technology.

A ''low-performing school'' would be defined as a school identified for school improvement under section 1116(c) of the ESEA, or in which a substantial majority of students fail to meet State performance standards.

Proposed new section 3418 of the ESEA (''Authorization of Appropriations'') would authorize the appropriation of such sums as may be necessary to carry out this subpart for fiscal years 2001 through 2005.

Section 349. Regional Technology in Education Consortia. Section 349(a) of the bill would add a new subpart heading and designation, Subpart 2, Regional Technology In Education Consortia (RTECs), to Part B of Title III of the ESEA. This proposed new subpart is based on current section 3141 of

the ESEA, as amended by this section of the bill.

Section 349(b) of the bill would amend section 3141 of the bill in several ways. First, section 349(b)(1) of the bill would amend section 3141(a) of the ESEA to authorize the Secretary to enter into contracts and cooperative agreements, in addition to the Secretary's current authority to award grants, to carry out the purposes of the proposed new subpart. In addition, the priority for various regional entities would be eliminated, although the Secretary would still be required to ensure, to the extent possible, that each geographic region of the United States is served by a project funded under this program.

Section 349(b)(1)(C) of the bill would add a new section 3141(a)(2)(B) of the ESEA that would require the RTECs to meet the generous provisions relating to technical assistance providers contained in proposed new section 2421 of the ESEA. Section 349(b) of the bill would also make several conforming changes and update the references in section 3141 of the ESEA, including updating provisions to reflect recent advances in technology.

Section 349(b)(2)(B)(ii) of the bill would amend section 3141(b)(2)(A) of the ESEA, which currently requires RTECs, to the extent possible, to develop and implement technology-specific, ongoing professional development. Section 349(b)(2)(B)(ii) of the bill would revise that requirement to require the consortia to develop and implement sustained and intensive, high-quality professional development that prepares educators to be effective developers, users, and evaluators of educational technology. As amended, this section of the ESEA also would require that the professional development is to be provided to teachers, administrators, school librarians, and other education personnel.

Section 349(b)(2)(B)(iv) of the bill would amend section 3141(b)(2)(F) of the ESEA, which currently requires the RTECs to assist colleges and universities to develop and implement preservice training programs for students enrolled in teacher education programs. As amended, this provision would require the RTECs to coordinate their activities in this area with other programs supported under Title III of the ESEA. This coordination is particularly important with respect to the Preparing Tomorrow's Teachers To Use Technology program (proposed new part C of Title III of the ESEA, as added by section 331 of the bill).

Section 349(b)(2)(B)(v)(I) of the bill would amend 3141(b)(2)(G) of the ESEA, which currently requires the RTECs to work with local districts and schools to develop support from parents and community members for educational technology programs. The amendments made by section 349(b)(2)(B)(v) of the bill would require the RTECs to work with districts and schools to increase the involvement and support of parents and community members for educational technology programs.

Section 349(b)(2)(C)(iv) of the bill would amend section 3141(b)(3) of the ESEA by eliminating the requirement that the RTECs coordinate their activities with organizations and institutions of higher education that represent the interests of the region served as such interests pertain to the application of technology in teaching, learning, and other activities.

Section 349(b)(2)(C)(vi) of the bill would amend section 3141(b)(3) of the ESEA by adding a new requirement that each RTEC maintain, or contribute to, a national repository of information on the effective uses of educational technology, including for professional development, and to disseminate the information nationwide.

Section 349(b)(2)(D) would revise section 3141(b)(4) of the ESEA, which requires the RTECs to coordinate their activities with appropriate entities. As revised, section 3141(b)(4) of the ESEA would require each consortium to: (1) collaborate, and coordinate the services that it provides, with appropriate regional and other entities assisted in whole or in part by the Department; (2) coordinate activities and establish partnerships with organizations and institutions of higher education that represent the interests of the region regarding the application of technology to teaching, learning, instructional management, dissemination, the collection and distribution of educational statistics, and the transfer of student information; and (3) collaborate with the Department and recipients of funding under other technology programs of the Department, particularly the Technology Literacy Challenge Fund and the Next-Generation Technology Innovation Grant Program (as added by sections 343 and 341(d) of the bill, respectively), to assist the Department and those recipients as requested by the Secretary.

Finally, section 349(c) of the bill would redesignate section 3141 of the ESEA as section 3421 of the ESEA, and section 349(d) of the bill would amend Title III of the ESEA by inserting proposed new section 3422 of the ESEA (''Authorization of Appropriations''), which would authorize the appropriation of such sums as may be necessary for this subpart for fiscal years 2001 through 2005.

TITLE IV—SAFE AND DRUG-FREE SCHOOLS AND COMMUNITIES ACT

Section 401. Safe and Drug Free Schools and Communities. Section 401 of the bill would amend and restate Title IV of the ESEA, which authorizes assistance to States, LEAs, and other public entities and nonprofit organizations for programs to create and maintain drug-free, safe, and orderly schools, as described below.

Proposed new section 4001 (''Short Title'') of the ESEA would rename Title IV of the ESEA as the ''Safe and Drug-Free Schools and Communities Act'' to update the short title of ''Safe and Drug-Free Schools and Communities Act of 1994'' in the current law.

Proposed new section 4002 (''Findings'') of the ESEA would update the findings in section 4002 of the current law to focus on the need for program quality and accountability.

Proposed new section 4003 (''Purpose'') of the ESEA would revise the statement of purpose in section 4003 of the current law to reflect the following overarching changes proposed in Title IV of the bill: (1) a more focused program emphasis on supporting activities for creating and maintaining drug-free, safe, and orderly environments for learning in and around schools, as compared to the more current, general emphasis on supporting activities to prevent youth from using drugs and engaging in violent behavior any time, anywhere; (2) improved targeting of resources, through the requirement that SEAs award funds competitively to LEAs with a demonstrated need for funds and the highest quality proposed programming, as compared to the current noncompetitive awarding of funds to all LEAS in the State, based on student enrollment; and (3) stronger coordination between programs funded by the Governors and the SEAs, by requiring that programs funded by the Governors directly complement and support LEA programs, and by requiring Governors and SEAs to reserve funds at the State level for joint capacity-building and technical assistance, and accountability services, to improve the effectiveness of, and institutionalize, State and local Safe and Drug-Free Schools and Communities (SDFSC) programs.

Proposed new section 4004 (''Authorization of Appropriations'') of the ESEA would authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out proposed new Title IV of the ESEA.

Part A—State grants for drug and violence prevention programs

Proposed new section 4111 (''Reservations and Allotments'') of the ESEA would describe the way in which funds would be distributed under this title. Proposed new section 4111(a) would retain the requirements in the current law for the Secretary to reserve, from each fiscal year's appropriation for SDFSC (Safe and Drug-Free Schools and Communities) State grant funds, 1 percent for the Outlying Areas, 1 percent for programs for Indian youth, and 0.2 percent for programs for Native Hawaiians, and would increase the amount of SDFSC State Grant funds the Secretary may reserve each fiscal year for evaluation to $2 million (up from $1 million under the current law) to support more intensive evaluations that are needed to demonstrate program outcomes and effectiveness.

Proposed new section 4111(a)(2)(A)(i) of the ESEA would prohibit the Outlying Areas from consolidating their SDFSC funds with other Department of Education program funds, as would otherwise be permitted under Insular Areas Consolidated Grant Authority in Title V of P.L. 95–134. This language would ensure that the ESEA and Governor of each Outlying Area can coordinate their SDFSC programs as required elsewhere in this part. Without this prohibition, a Governor or SEA may choose to spend its SDFSC funds on other eligible program(s), making it impossible for the Governor and SEA to meet these SDFSC program coordination requirements. This section would, however, permit the Governor of an Outlying Area to consolidate its SDFSC funds with the Area's SDFSC SEA funds, and allow the Outlying Area to administer both SDFSC funding streams under the statutory requirements applicable to SDFSC SEA programs. This provision would address the reduced program flexibility and increased administrative burden the Outlying Areas may experience from the prohibition in proposed new section 4111(a)(2)(i) of the ESEA.

Proposed new section 4111(a)(2) would also: (1) explicitly make applicable to the Outlying Areas the same SDFSC requirements concerning authorized programs and activities, applications for funding, and coordination between the Governor and the SEA that are applicable to the States; (2) explicitly make applicable to the Secretary of the Interior the same SDFSC requirements concerning authorized programs and activities for SDFSC programs for Indian youth that are applicable to the States; and (3) authorize SDFSC programs for Native Hawaiians (which are currently authorized under section 4118 of the ESEA) and explicitly make applicable to these programs the same SDFSC requirements concerning authorized programs and activities that are applicable to the States. This section would also delete the language in section 4118 of the ESEA requiring the Governor of the State of Hawaii to recognize organizations eligible for funding under the SDFSC Native Hawaiian setside, and add language requiring that programs funded under this set-aside by coordinated with the Hawaii SEA.

Proposed new section 4111(b) of the ESEA would retain the provisions in current law; (1) requiring the Secretary to allocate State grant funds half on the basis of school-aged population, and half on the basis of State shares of ESEA Title I funding for the preceding year; (2) that no State receive less than one-half of one percent of all State grant funding; (3) permitting the Secretary

to redistribute to other States, on the basis of the formula in section 4111(b)(1), any amount of State grant funds the Secretary determines a State will be unable to use within two year of the initial award; and (4) defining ''State'' and ''local educational agency.''

Proposed new section 4112 (''State Applications'') of the ESEA would set forth the State grant application procedure for this title. Proposed new section 4112(a) of the ESEA would change the current State grant application requirements to require that the Governor and SEA apply jointly for funds, to ensure increased coordination between the Governor and SEA, consistent with the new program requirements in proposed new sections 4113(b)(4) and 4115(b)(3) of the ESEA.

This jointly submitted application would contain: (1) a description of how SDFSC State grant funds will be coordinated with other Federal education and drug prevention programs; (2) a list of the State's outcome-based performance indicators for drug and violence prevention that are selected from a core set of indicators to be developed by the Secretary in consultation with State and local officials; and (3) a description of the procedures the State will use to inform its LEAs of the State's performance indicators under this program and for assessing and publicly reporting progress toward meeting those indicators (or revising them as needed), and how the procedures the State will use to select LEAs and other entities for SDFSC State grant funding will support the attainment of the State's results-based performance indicators. These changes would address the program that, under current law, many States have weak goals and objectives for their SDFSC programs that are entirely process-oriented and do not tie strategically to the State's needs in this area.

The proposed new State grant application would also contain a description of the procedures the SEA will use for reviewing applications and awarding funds to LEAs competitively, based on need and quality as required by proposed new section 4113(c)(2) of the ESEA, as well as a description of the procedures the SEA will use for reviewing applications and awarding funds to LEAs non-competitively, based on need and quality as permitted by section 4113(c)(3) of the ESEA. These changes constitute a significant departure from current law, under which SEAs award funds to LEAs on the basis of student enrollment and on State-determined ''greatest need'' criteria.

Under proposed new section 4112(a) of the ESEA, the Governor must include in its SDFSC State grant applications a description of the procedures the Governor will use for reviewing applications and awarding funds to eligible applicants competitively, based on need and quality, as required by section 4115(c) of the ESEA. These changes would significantly strengthen the current law, which does not specify any criteria for how Governors must award their funds under this program.

States would also be required to include in their applications a description of how the SEA and Governor will use the funds reserved under proposed new sections 4113(b) and 4115(b) of the ESEA for coordinated capacity-building, technical assistance, and program accountability services and activities at the State and local levels, including how they will coordinate their activities with law enforcement, health, mental health, and education programs and officials at the State and local levels.

The proposed new State grant application would add a new requirement for States to describe in their applications how the SEA will provide technical assistance to LEAs not receiving SDFSC State grant funds to improve their programs, consistent with the requirement in proposed new section 4113(b)(4)(B)(ii) that, to the extent practicable SEAs and Governors use a portion of the funds they reserve for State-level activities to provide capacity building and technical assistance and accountability services to all LEAs in the State, including those that do not receive SDFSC State grant funds. Finally, this proposed new section would retain the assurances in current law that: (1) States develop their applications in consultation and coordination with appropriate State officials and representatives of parents, students, and community-based organizations; and (2) States will cooperate with, and assist the Secretary in conducting national impact evaluations of programs required by proposed new section 4117(a).

Proposed new section 4112(b) of the ESEA would retain the language in the current law under section 4112(d) requiring the Secretary to use a peer review process in reviewing SDFSC State grant applications.

Proposed new section (''State and Local Educational Agency Programs'') of the ESEA would describe the SEA and LEA programs to be carried our under this part. Proposed new section 4113(a) of the ESEA would retain the requirement in current law that 80 percent of the funds allocated to each State under section 4111(b) of the ESEA be awarded to SEAs for use by the SEAs and LEAs, with minor changes in language conforming with the revised statement of purpose in proposed new section 4003 of the ESEA that the funds be used to carry out programs and activities that are designed to create and maintain drug-free, safe, and orderly learning environments for learning in and around schools.

Proposed new section 4113(b) of the ESEA would depart from the current statute by establishing a new authority requiring SEAs to reserve between 10 percent and 20 percent of their allocations under proposed new section 4113(a) for State-level activities. Under this new authority, SEAs may use the reserved funds to plan, develop, and implement, jointly with the Governor, capacity building and technical assistance and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement. Within this 20 percent cap, but in addition to the 10 percent minimum for State-level activities, SEAs may also use up to 5 percent of their funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for program administration. This increased allowance for SEA State administrative costs is provided to accommodate the increased administrative responsibilities of running a State grant competition under proposed new section 4113(c) of the ESEA, and would provide greater assistance to LEAs for program improvement than under the current law.

Proposed new section 4113(b)(4)(A) of the ESEA would require SEAs and Governors to jointly use the amount reserved under sections 4113(b)(3) and 4114(b)(3) to plan, develop, and implement capacity building and technical assistance and accountability services designed to support the effective implementation of local drug and violence prevention activities throughout the State, as well as promote program accountability and prevention.

Proposed new section 4113(b)(4)(B)(i) of the ESEA would add new language to the statute clarifying that the SEA and Governor may carry out the services and activities required under proposed new section 4113(b)(4)(A) directly, or through subgrants or contracts with public and private organizations, as well as individuals.

Proposed new section 4113(b)(4)(B)(ii) of the ESEA would add new language to the statute requiring that, to the extent practicable, SEAs and Governors use funds under proposed new section 4113(b)(4)(A) to provide capacity building and technical assistance and accountability services and activities to all LEAs in the State, not just those that receive SDFSC State grants, in order to ensure that: (1) LEAs receiving SDFSC funds receive adequate help to implement and institutionalize high-quality programs; and (2) States can provide at least some program assistance to LEAs that will no longer receive SDFSC awards once funding is limited to 50 percent of LEAs in each State under the targeting provisions proposed in new section 4113(c)(2)(D) of the ESEA.

Proposed new section 4113(b)(4)(B)(iii) of the ESEA would permit he SEA and Governor to provide emergency intervention services to schools and communities following a traumatic crisis, such as a shooting or major accident that has disrupted the learning environment.

Proposed new section 4113(b)(4)(C) of the ESEA would add definitions of ''capacity building'' and ''technical assistance and accountability services'' to clarify the meaning of these terms in the statute.

Proposed new section 4113(c)(1) of the ESEA would specify that SEAs must use at least 80 percent of their funding for local-level activities, as described in proposed new sections 4113(c)(2) and (3), rather than awarding at least 91 percent of their funding to LEAs as is required under current law.

Proposed new section 4113(c)(2)(A) of the ESEA would require SEAs to use at least 70 percent of their total SDFSC State grant funding for competitive awards to LEAs that the SEA determines have need for assistance, rather than the current law approach of awarding at least 91 percent of their funding to LEAs in the State by formula, based on enrollment (70 percent) and ''greatest need'' (30 percent).

Proposed new section 4113(c)(2)(B) of the ESEA would make minor wording changes to the nine ''need'' factors in the current statute, and add three additional factors relating to local fiscal capacity to fund drug and violence prevention programs without Federal assistance; the incidence of drug paraphernalia in schools; and the high rates of drug-related emergencies or deaths.

Proposed new section 4113(c)(2)(C) of the ESEA would depart from the current statute to require SEAs to base their competition under proposed new section 4113(c)(2)(A) on the quality of an LEA's proposed program and how closely it is aligned with the following principles of effectiveness: (1) the LEA's program is based on a thorough assessment of objective data about the drug and violence problems in the schools and communities to be served; (2) the LEA has established a set of measurable goals and objectives aimed at ensuring that all schools served by the LEA have a drug-free, safe, and orderly learning environment, and has designed its program to meet those goals and objectives; (3) the LEA has designed and will implement its programs for youth based on research or evaluation that provides evidence that the program to be used will prevent or reduce drug use, violence, delinquency, or disruptive behavior among youth; and (4) the LEA will evaluate its program periodically to assess its progress toward achieving its goals and objectives, and will use evaluation results to refine, improve, and strengthen its program, and refine its goals and objectives, as needed.

Proposed new section 4113(c)(2)(D) of the ESEA would require SEAs to make competitive awards under proposed new section 4113(c)(2)(A) to no more than 50 percent of the LEAs in the State, unless the State demonstrates in its application that the SEA can

make subgrants to more than 50 percent of the LEAs in the State and still comply with proposed new subparagraph (E) of this section.

Proposed new section 4113(c)(2)(E) of the ESEA would require SEAs to make their competitive awards to LEAs under proposed new section 4113(c)(2) of sufficient size to support high-quality, effective programs and activities that are designed to create safe, disciplined, and drug-free learning environments in schools and that are consistent with the needs, goals, and objectives identified in the State's plan under proposed new section 4112.

Proposed new section 4113(c)(3)(A) of the ESEA would depart from the current statute to permit SEAs to use up to 10 percent of their total SDFSC State grant funding for non-competitive awards to LEAs with the greatest need for assistance, as described in proposed new section 4113(c)(2)(B), that did not receive a competitive award under section 4113(c)(2)(A). LEAs would be eligible to receive only one subgrant under this paragraph.

Proposed new section 4113(c)(3)(B) of the ESEA would require, for accountability purposes, that in order for an SEA to make a non-competitive award to an LEA under proposed new section 4113(c)(3)(A), the SEA must assist the LEA in meeting the information requirements under proposed new section 4116(a) of the ESEA pertaining to LEA needs assessment, results-based performance measures, comprehensive safe and drug-free schools plan, evaluation plan, and assurances, and provide continuing technical assistance to the LEA to build its capacity to develop and implement high-quality, effective programs consistent with the principles of effectiveness in proposed new section 4113(c)(2)(C)(ii) of the ESEA.

Proposed new section 4113(d) of the ESEA would provide that LEA awards under section 4113(c) be for a project period not to exceed three years, and require that, in order to receive funds for the second or third year of a project, the LEA demonstrate to the satisfaction of the SEA that the LEA's project is making reasonable progress toward its performance indicators under proposed new section 4116(a)(3)(C) of the ESEA. This proposed new section would also make technical changes to the local allocation formula in current law.

Proposed new section 4114 (''Local Drug and Violence Prevention Programs'') of the ESEA would describe the local drug and violence prevention services and activities that may be carried out under this title. Proposed new section 4114(a) of the ESEA would require that each LEA that receives SDFSC funding use those funds to support research-based drug and violence prevention services and activities that are consistent with the principles of effectiveness in proposed new section 4113(c)(2)(C)(ii) of the ESEA.

Proposed new section 4114(b) (''Other Authorized Activities'') of the ESEA would permit an LEA that receives an SDFSC subgrant to use those funds for activities other than research-based programming, so long as the LEA meets the requirements in proposed new section 4114(a), and those additional activities are carried out in a manner that is consistent with the most recent relevant research and with the purposes of this title. Proposed new section 4114(b)(1) of the ESEA would also include an illustrative list of 13 such activities.

Proposed new section 4114(b)(2) of the ESEA would retain the 20 percent cap on SDFSC subgrant funds that LEAs may spend for the acquisition or use of metal detectors and security personnel, but would permit SEAs to waive this cap for an LEA that demonstrates, to the satisfaction of its SEA, in its application for funding under proposed new section 4116 of the ESEA, that it has a compelling need to do so.

Proposed new section 4115 (''Governor's Program'') of the ESEA would establish the Governor's Program. Proposed new section 4115(a) would retain the requirement in the current law that 20 percent of the funds allocated to each State under proposed new section 4111(b) be awarded to the Governor, but require the Governor to use these funds to support community efforts that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments for learning in and around schools.

Proposed new section 4115(b) of the ESEA would establish a new authority requiring Governors to reserve between 10 percent and 20 percent of their allocations under proposed new section 4115(a) for State-level activities to plan, develop, and implement, jointly with the SEA, capacity building, technical assistance, and accountability services to support the effective implementation of local drug and violence prevention activities throughout the State and promote program accountability and improvement, as described in proposed new section 4113(b)(4) of the ESEA. Within this 20 percent cap, but in addition to the 10 percent minimum for State-level activities, the Governors could use up to 5 percent of their total funding (i.e., up to 25 percent of the amount they reserve for State-level activities) for direct or in direct administrative costs.

Proposed new section 4115(c) of the ESEA would specify that a Governor must use at least 80 percent of SDFSC State grant funding under proposed new section 4111(b) to make competitive subgrants to community-based organizations, LEAs, and other public entities and private non-profit organizations to support community efforts that directly complement the efforts of LEAs to foster drug-free, safe, and orderly learning environments in and around schools. Proposed new section 4115(c)(1)(B) of the ESEA would require that, to be eligible for a subgrant, an applicant (other than a LEA applying on its own behalf) must include in its application its written agreement with one or more LEAs, or one or more schools within an LEA, to provide services and activities in support of these LEAs or schools, as well as an explanation of how those services and activities will complement or support the LEAs' or schools' efforts to provide a drug-free, safe, and orderly school environment. Proposed new section 4115(c)(1)(C) of the ESEA would require a Governor to base the competition for these subgrants on: (1) the quality of the applicant's proposed program and how closely it is aligned with the principles of effectiveness described in section 4113(c)(2)(C)(ii); and (2) on objective criteria, determined by the Governor, on the needs of the schools for LEAs to be served.

Subgrants made by Governors under proposed new section 4115(c) of the ESEA may support community efforts on a Statewide, regional, or local basis and may support the efforts of LEAs and schools that do not receive subgrants. Recipients of these subgrants would use these funds generally to support research-based drug and violence prevention services and activities that are consistent with the principles of effectiveness, and may use subgrant funds for activities other than research-based programming, provided that these additional activities are carried out in a manner that is consistent with the most recent relevant research and with the purposes of this title. Proposed new section 4115(c)(2)(B) of the ESEA also includes an illustrative list of 5 such activities.

Proposed new section 4116 (''Local Applications'') of the ESEA would: (1) retain language in the current statute, with minor technical changes, requiring applicants for subgrants from the SEA to submit an application to the SEA at such time, and include such other information, as the SEA may require; and (2) add a corresponding requirement not in the current statute, requiring applicants for subgrants from the Governor to submit an application to the Governor at such time, and includes such other information, as the Governor may require.

Proposed new section 4116(a)(2)(A) of the ESEA would retain the current law requirement that LEAs applying for SEA subgrants under proposed new section 4113(c)(2), 4113(c)(3), or 4115(c) of the ESEA develop their applications in consultation with a local or regional advisory council that includes, to the extent possible, representatives of local government, business, parents, students, teachers, public school personnel, mental health service providers, appropriate State agencies, private schools, law enforcement, community-based organizations, and other groups interested in, and knowledgeable about, drug and violence prevention. Proposed new section 4116(a)(2)(B) of the ESEA would add similar consultation requirements for the development of applications by entities other than LEAs seeking subgrants, under the Governor's program authorized by proposed new section 4115(c) of the ESEA.

Proposed new section 4116(a)(3) of the ESEA would: (1) make technical changes to strengthen the current LEA application requirements for the SEA formula grant program by increasing the emphasis on the applicant's need for assistance and the quality of its proposed programming; and (2) make these strengthened requirements applicable to LEAs seeking subgrants under the proposed new competitive subgrant authority in proposed new section 4113(c)(2) of the ESEA, or the non-competitive subgrant authority in proposed new section 4113(c)(3) of the ESEA, as well as to LEAs that apply to Governors under the subgrant authority in proposed new section 4115(c) of the ESEA.

Proposed new section 4116(a)(4) of the ESEA would add a requirement that each LEA (or consortium of LEAs, if applying jointly) that applies to its SEA under the competitive subgrant authority in proposed new section 4113(c)(2) of the ESEA, or the non-competitive subgrant authority in proposed new section 4113(c)(3) of the ESEA, include in its application assurances that it: (1) has a policy, consistent with State law, that requires the expulsion of students who posses a firearm at school consistent with the Gun-Free Schools Act; (2) has, or will have, a full- or part-time program coordination whose primary responsibility is planning, designing, implementing, and evaluating the applicant's programs (unless the applicant demonstrates in its application, to the satisfaction of the SEA, that such a program coordinator is not needed); (3) will evaluate its program every two years to assess its progress toward meeting its goals and objectives, and will use the results of its evaluation to improve its program and refine its goals and objectives, as needed; and (4) has, or the schools to be served have, a comprehensive Safe and Drug-Free Schools plan that includes: (a) appropriate and effective discipline policies that prohibit disorderly conduct, the possession of firearms and other weapons, and the illegal use, possession, distribution, and sale of tobacco, alcohol, and other drugs by students, and that mandates predetermined consequences, sanctions, or interventions for specific offenses; (b) school security procedures at school and while students are on the way to and from school which may include the use of metal detectors and the development and implementation of formal agreements with law enforcement officials; (c) early intervention and

prevention activities of demonstrated effectiveness designed to create and maintain safe, disciplined, and drug-free environments; (d) school readiness and family involvement activities; (e) improvements to classroom management and school environment, such as efforts to reduce class size or improve classroom discipline; (f) procedures to identify and intervene with troubled students, including establishing linkages with, and referring students to, juvenile justice, community mental heath, and other service providers; (g) activities that connect students to responsible adults in the community, including activities such as afterschool or mentoring programs; and (h) a crisis management plan for responding to violent or traumatic incidents on school grounds which provides for addressing the needs of victims, and communicating with parents, the media, law enforcement officials, and mental health service providers.

Proposed new section 4116(a)(5) of the ESEA would add a requirement that any eligible entity that applies to the Governor for a subgrant under proposed new section 4115(c) include in its application: (1) a description of how the services and activities to be supported will be coordinated with relevant SDFSC State grant programs that are supported by SEAs, including how recipients will share resources, services, and data; (2) a description of how the applicant will coordinate its activities under this part with those implemented under the Drug-Free Communities Act, if any; and (3) an assurance that it will evaluate its program every two years to assess its progress toward meeting its goals and objectives, and will use the results of its evaluation to improve its program and refine its goals and objectives as needed (if the applicant is not an LEA), or the assurances under proposed new section 4116(a)(4) of the ESEA (if the applicant is an LEA.)

Proposed new section 4116(b) of the ESEA would modify the current requirement that Governors use a peer review process in reviewing local applications for SDFSC subgrants, by giving Governors the flexibility to use other methods to ensure that applications under proposed new section 4116 of the ESEA are funded on the basis of need and quality, while requiring SEA to use a peer review process.

Proposed new section 4117 (''National Evaluations and Data Collections'') of the ESEA would authorize the Secretary to provide for national evaluations on the quality and impact of programs under this title, make minor technical changes to current law to give the Secretary increased flexibility in meeting the national evaluation and data collection requirements in this section, and add a new requirement for the Secretary and the Attorney General to publish an annual report on school safety.

Proposed new section 4117(b) of the ESEA would make minor technical changes to the current law to refocus the State reports required by this section on the State's progress toward attaining its performance indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed throughout proposed new Part A of Title IV of the ESEA. This section would also add a new requirement for States to report, in such form as the Secretary, in consultation with the Secretary of Health and Human Services, may require, all school-related suicides and homicides within the State, whether at school or at a school sponsored function, or on the way to or from school or a school-sponsored function, within 30 days of the incident. This requirement will enable the Federal Government to collect longitudinal data on this statistic more cost-effectively, and will impose little administrative burden on the States.

Proposed new section 4117(c)(1)(A) of the ESEA would make minor technical changes to the current law to refocus the local reports required by this section on the LEA's progress toward attaining its performance indicators for achieving drug-free, safe, and orderly learning environments in its schools, consistent with the changes proposed for the corresponding State reports under proposed new section 4117(a) of the ESEA, would add a new requirement that the LEA include in this report a statement of any problems the LEA has encountered in implementing its program that warrant the provision of technical assistance by the SEA, to assist the SEA in planning its technical assistance activities. These changes would apply to LEAs that receive SDFSC subgrants through their SEA under proposed new sections 4113(c)(2) or 4113(c)(3).

Proposed new section 4117(c)(1)(B) of the ESEA would add a new requirement that SEAs review the annual LEA reports, and terminate funding for the second or third year of an LEA's program unless the SEA determines that the LEA is making reasonable progress toward meeting its objectives.

Proposed new section 4117(c)(2) of the ESEA would add new language to the ESEA requiring that Governors' award recipients under proposed new section 4115(c) of the ESEA submit an annual progress report to the Governor and to the public containing the same type of information required for LEA progress reports under proposed new section 4117(c)(1)(A) of the ESEA. The Governor would be required to review the annual progress reports, and to terminate funding for the second or third year of a subgrantee's program unless the Governor determines that the subgrantee is making reasonable progress toward meeting its objectives.

PART B—National programs

Proposed new section 4211 (''National Activities'') of the ESEA would authorize national programs. Proposed new section 4211(a) of the ESEA would, with only minor changes, authorize the Secretary to use national programs funds for programs to promote drug-free, safe, and orderly learning environments for students at all educational levels, from preschool through the postsecondary level and for programs that promote lifelong physical activity. The Secretary would be authorized to carry out the national programs authorized under proposed new section 4211(a) directly, or through grants, contracts, or cooperative agreements with public and private organizations and individuals, or through agreements with other Federal agencies, and to coordinate with other Federal agencies as appropriate.

Proposed new section 4211(b)(2) of the ESEA would streamline the list of authorized national programs activities to the following examples: (1) one or more centers to provide training and technical assistance for teachers, school administrators and staff, and others on the identification and implementation of effective strategies to promote safe, orderly, and drug-free learning environments; (2) programs to train teachers in innovative techniques and strategies of effective drug and violence prevention; (3) research and demonstration projects to test innovative approaches to drug and violence prevention; (4) evaluations of the effectiveness of programs funded under this title, and of other programs designed to create safe, disciplined, and drug-free environments; (5) direct services and technical assistance to schools and schools systems, including those afflicted with especially severe drug and violence problems; (6) developing and disseminating drug and violence prevention materials and information in print, audiovisual, or electronic format, including information about effective research-based programs, policies, practices, strategies, and curriculum and other relevant materials to support drug and violence prevention education; (7) recruiting, hiring, and training program coordinators to assist school districts in implementing high-quality, effective, research-based drug and violence prevention programs; (8) the development and provision of education and training programs, curricula, instructional materials, and professional training for preventing and reducing the incidence of crimes or conflicts motivated by bullying, hate, prejudice, intolerance, or sexual harassment and abuse; (9) programs for youth who are out of the education mainstream, including school dropouts, students who have been suspended or expelled from their regular education program, and runaway or homeless children and youth; (10) programs implemented in conjunction with other Federal agencies that support LEAs and communities in developing and implementing comprehensive programs that create safe, disciplined, and drug-free learning environments and promote healthy childhood development; (11) services and activities that reduce the need for suspension and expulsion in maintaining classroom order and discipline; (12) services and activities to prevent and reduce truancy; (13) programs to provide counseling services to troubled youth, including support for the recruitment and hiring of counselors and the operation of telephone help lines; and (14) other activities that meet emerging or unmet national needs consistent with the purposes of this title.

Proposed new section 4211(c)(1) of the ESEA would authorize the Secretary to carry out programs for students that promote lifelong physical activity directly, or through grants, contracts, or cooperative agreements with public and private organizations and individuals, or through agreements with other Federal agencies, and to coordinate with the Centers for Disease Control and Prevention, the President's Council on Physical Fitness, and other Federal agencies as appropriate. Such programs could include: conducting demonstrations of school-based programs that promote lifelong physical activity, with a particular emphasis on physical education programs that are a part of a coordinated school health programs; training, technical assistance, and other activities to encourage States and LEAs to implement sound school-based programs that promote lifelong physical activity; and activities designed to build State capacity to provide leadership and strengthen schools' capabilities to provide school-based programs that promote lifelong physical activity.

Proposed new section 4211(d) of the ESEA would retain the requirement in the current statute that the Secretary use a peer review process in reviewing applications for funds under proposed new section 4211(a) of the ESEA.

Part C—School emergency response to violence

Proposed new section 4311 (''Project SERV'') of the ESEA would authorize Project SERV, a program designed to provide education-related services to LEAs in which the learning environment has been disrupted due to a violent or traumatic crisis, such as a shooting or major accident. The Secretary would be authorized to carry out Project SERV directly, through contracts, grants, or cooperative agreements with public and private organizations, agencies, and individuals, or through agreements with other Federal agencies.

Under proposed new section 4311(b) of the ESEA, Project SERV would provide: (1) assistance to school personnel in assessing a crisis situation, including assessing the resources available to the LEA and community

in response to the situation, and developing a response plan to coordinate services provided at the Federal, State, and local level; (2) mental health crisis counseling to students and their families, teachers, and others in need of such services; (3) increased school security; (4) training and technical assistance for SEAs and LEAs, State and local mental health agencies, State and local law enforcement agencies, and communities to enhance their capacity to develop and implement crisis intervention plans; (5) services and activities designed to identify and disseminate the best practices of school- and community-related plans for responding to crises; and (6) other needed services and activities that are consistent with the purposes of Project SERV.

Proposed new section 4311(b) of the ESEA would require the Secretary of Education, in consultation with the Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, to establish criteria and application requirements as may be needed to select which LEAs are assisted under Project SERV, and permit the Secretary to establish reporting requirements for uniform data and other information from all LEAs assisted under Project SERV.

Proposed new section 4311(c) of the ESEA would require the establishment of a Federal Coordinating Committee on school crises comprised of the Secretary (who shall serve as chair of the Committee), the Attorney General, the Secretary of Health and Human Services, the Director of the Federal Emergency Management Agency, the Director of the Office of National Drug Control Policy, and such other members as the Secretary shall determine. This committee would be charged with coordinating the Federal responses to crises that occur in schools or directly affect the learning environment in schools.

Part D—Related provisions

Proposed new section 4411 (''Gun-Free Schools Act'') of the ESEA would authorize the Gun-Free Schools Act as proposed new Part D of Title IV of the ESEA because of its close relationship with the SDFSC program. The Gun-Free Schools Act is currently authorized under Part F of Title XIV of the ESEA.

Proposed new section 4411(b) of the ESEA would continue, with minor technical changes, the current requirement that each State receiving Federal funds under the ESEA have in effect a State law requiring LEAs to expel from school, for a period of not less than one year, a student who is determined to have possessed a firearm at school under the jurisdiction of the LEA in that State, and that such State law allow the chief administering officer of that LEA to modify the expulsion requirement for a student on a case-by-case basis. It would also define the term 'firearm' as that term is defined in section 921 of title 18, United States Code (which includes bombs).

Proposed new section 4411 of the ESEA would contain: (1) a special rule that the provisions of this section be construed in a manner consistent with the Individuals with Disabilities Education Act; (2) local reporting requirements requiring each LEA requesting assistance from the SEA under the ESEA to provide to the State in its application: (a) an assurance that such LEA is in compliance with the State law required by proposed new section 4411(b); (b) a description of the circumstances surrounding any expulsions imposed under the State law required by proposed new section 4411(b), including the name of the school concerned, the number of students expelled from such school (disaggregated by gender, race, ethnicity, and educational level); and (c) the type of weapons concerned; (3) the number of students referred to the criminal justice or juvenile justice system as required in section 4412(a)(1), and the instances in which the chief administering officer of an LEA modified the expulsion requirement described in section 4411(b)(1) on a case-by-case basis; and (4) a requirement that each State report the information described in proposed new section 4411(d) to the Secretary on an annual basis.

Proposed new section 4412 (''Local Policies'') of the ESEA would restate, with minor technical changes, the current prohibition against ESEA funds being awarded to any LEA unless it has a policy ensuring referral to the criminal justice or juvenile delinquency system of any student who possesses a firearm at a school served by such agency. It would also add two new additional requirements that no funds may be made available under the ESEA to any LEA unless: (1) it has a policy ensuring that a student who possesses a firearm at school is referred to a mental health professional for assessment as to whether he or she poses an imminent threat of harm to himself, herself, or others and needs appropriate mental health services before readmission to school; and (2) it has a policy that a student who possesses a firearm at school who has been determined by a mental health professional to pose an imminent threat of harm to himself, herself, or others receive, in addition to appropriate services under section 11206(9) of the ESEA, appropriate mental health services before being permitted to return to school.

Proposed new section 4412(b) of the ESEA would restate the current Gun-Free Schools Act requirement that proposed new section 4412 be construed in a manner consistent with the Individuals with Disabilities Education Act, and proposed new section 4413(c) of the ESEA would restate the current definitions of the terms ''firearm'' and ''school.''

Proposed new section 4413 (''Materials'') of the ESEA would restate the current requirement that drug prevention programs supported under Title IV of the ESEA convey a clear and consistent message that the illegal use of alcohol and other drugs is wrong and harmful.

Proposed new section 4413(b) of the ESEA would continue, with minor changes, the current law provision that the Secretary shall not prescribe the use of particular curricula for programs under Title IV of the ESEA, but may evaluate and disseminate information about the effectiveness of such curricula and programs.

Proposed new section 4414 (''Prohibited Uses of Funds'') of the ESEA would restate the current prohibition against the use of Title IV ESEA funds for: (1) construction (except for minor remodeling needed to accomplish the purposes of this part; and (2) medical services, drug treatment or rehabilitation, except for pupil services or referral to treatment for students who are victims of, or witnesses to, crime or who use alcohol, tobacco, or drugs.

Proposed new section 4415 (''Drug-Free, Alcohol-Free, and Tobacco-Free Schools'') of the ESEA would add a new requirement that each SEA and LEA that receives Title IV, ESEA funds have a policy that prohibits possession or use of tobacco, and the illegal use of drugs or alcohol, in any form, at any time, and by any person, in school buildings, on school grounds, or at any school-sponsored event. Each LEA requesting assistance under the ESEA must include in its application for funding an assurance that it is in compliance with this new requirement, and each SEA would be required to report annually to the Secretary if any of its LEAs is not in compliance with this new requirement.

Proposed new section 4416 (''Prohibition on Supplanting'') of the ESEA would require that funds under this title be used to increase the level of State, local, and other non-Federal funds that would, in the absence of funds under this title, be made available for programs and activities authorized under this title, and in no case to supplant such State, local, and other non-Federal funds.

Proposed new section 4417 (''Definitions of Terms'') of the ESEA would restate the current law definitions for the terms ''drug and violence prevention'' and ''hate crime,'' and definitions for the terms ''drug treatment'' and ''drug rehabilitation'' and ''medical servvices.''

TITLE V—PROMOTING EQUITY, EXCELLENCE, AND PUBLIC SCHOOL CHOICE

Among other things, proposed new Title V of the Educational Excellence for All Children Act of 1999 would: (1) improve the Magnet Schools Assistance program by adding emphasis on projects that consider the diversity of the student populations and that have the capacity to continue after the Federal grant has run out; (2) reauthorize the Women's Educational Equity program, currently in Part B of Title V of the ESEA, but move it to Part D of Title V of the ESEA; (3) repeal the Assistance to Address School Dropout Problems program, currently in Part C of Title V of the ESEA; (4) move Charter Schools, from Part C of Title X of the ESEA, to Part B of Title V of the ESEA; and (5) add a new initiative, ''Options: Opportunities to Improve Our Nation's Schools'', to be new Part C of that Title that would provide a flexible authority to support SEAs and LEAs in experimenting with different kinds of public elementary and secondary schools, such as worksite and college-based schools.

Section 501. Renaming the Title. Section 501 of the bill would change the name of Title V of the ESEA to ''Promoting Equity, Excellence, and Public School Choice''.

MAGNET SCHOOL ASSISTANCE

Section 502. Findings. Section 502 of the bill would amend Part A (Magnet School Assistance) of Title V of the ESEA. Section 502(a) of the bill would make editorial changes to, and update, section 5101 of the ESEA, the findings for the Magnet School Assistance Program.

Section 502(b) of the bill would amend section 5102(3) of the ESEA (Statement of Purpose) to clarify that the purpose of providing financial assistance to develop and design innovative educational methods and practices is to promote diversity and increase choices in public elementary and secondary schools and educational programs.

Section 502(c) of the bill would amend section 5106(b)(1)(D) of the ESEA (Information and Assurances), a part of the application requirements, to eliminate reference to the Goals 2000: Educate America Act and to make an editorial change.

Section 502(d) of the bill would amend section 5107 of the ESEA (Priority) to eliminate the current priorities for greatest need and new, or significantly revised, projects. These priorities are not well defined and have not helped to determine which grant applications are most deserving. Section 502(d) would also add a new priority for projects that propose activities, which may include professional development, that will build local capacity to operate the magnet program once Federal assistance has ended.

Section 502(e) of the bill would amend section 5108(a) of the ESEA (Uses of Funds) to: (1) revise paragraph (3) to allow for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff who have expertise and professional skills necessary for the conduct of programs in magnet schools or who

demonstrate knowledge, experience, or skills in the relevant field of expertise; and (2) allow grantees to use funds for activities, including professional development, that will build the applicant's capacity to operate the magnet program once Federal assistance has ended.

Section 502(f) of the bill would repeal section 5111 of the ESEA (Innovative Programs). Activities are subsumed under the new Public School Choice program.

Section 502(g) of the bill would redesignate current section 5112 of the ESEA (Evaluation, Technical Assistance, and Dissemination) as section 5111, and incorporate its requirements into proposed new section (''Evaluation, Technical Assistance, and Dissemination'') that would authorize the Secretary to reserve not more than five percent (rather than two percent) of appropriated funds in any fiscal year to evaluate magnet schools programs, as well as provide technical assistance to applicants and grantees and collect and disseminate information on successful magnet school programs. Section 502(g) of the bill would also require each evaluation, in addition to current items, to address the extent to which magnet school programs continue once grant assistance under this part ends.

Section 502(h) of the bill would amend section 5113(a) of the ESEA (Authorization) to authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to be appropriated to carry out the part. Section 501(h) of the bill would also redesignate section 5113 as section 5112.

WOMEN'S EDUCATIONAL EQUITY

Section 503. Amendments to the Women's Educational Equity Program. Section 503(a)(1)(A) of the bill would amend section 5201(a) of the ESEA (Short Title) to update and change the short title from the ''Women's Educational Equity Act of 1994'' to the ''Women's Educational Equity Act.''

Section 503(a)(1)(B) of the bill would amend section 5201(b) of the ESEA (Findings) to make it clear, in paragraph (3)(B), that classroom textbooks and other educational materials continue not to reflect sufficiently the experiences, achievements, or concerns of women and girls. Little progress has been made in this area since 1994. Section 5201(b) of the ESEA would also be amended by slightly editing paragraph (3)(C) and adding a recent finding to that paragraph that girls are dramatically underrepresented in higher-level computer science courses.

Section 503(a)(2)(A) of the bill would amend section 5204 of the ESEA (Applications) to change several internal section references to conform section numbers to the part redesignation and to clarify that the application requirements in which these references appeal apply only to implementation grants. Section 503(a)(2)(B) of the bill would amend section 5204(b)(2) of the ESEA to change a reference to ''the National Education Goals'' to ''America's Education Goals.'' Section 503(a)(2)(C) of the bill would eliminate section 5204(4) of the ESEA, which requires an application description of how program funds would be used in a consistent manner with the School-to-Work Opportunities Act of 1994. The School-to-Work Opportunities Act sunsets in 2001, and this reference will be obsolete. Paragraphs (5) through (7) in the section would be redesignated.

Section 503(a)(3) of the bill would conform a section reference to a later redesignation.

Section 503(a)(4) of the bill would repeal section 5206 of the ESEA (Report). The report required by this section will be submitted soon, satisfying the requirement and making it obsolete.

Section 503(a)(5) of the bill would amend section 5207 of the ESEA (Administration) by eliminating subsection (a), requiring the Secretary to conduct an evaluation of materials and programs developed under the program and to submit a report to Congress by January 1, 1998. Congress did not provide funding for the mandated evaluation, and the report was not done.

Section 503(a)(6) of the bill would amend section 5208 of the ESEA to authorize appropriations of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out this part. Because the appropriation for the Women's Educational Equity program has been small in recent years, using two thirds of this appropriation for local implementation grants (rather than national research and development grants) has not been the most effective and development grants) has not been the most effective use of program resources.

Section 503(b) of the bill would redesignate Part B of Title V of the ESEA as Part D of the Title and redesignate sections 5201, 5202, 5203, 5204, 0505, 5207, and 5208 of the ESEA as sections 5401, 5402, 5403, 5404, 5405, 5406, and 5407, respectively.

ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

Section 504. Repeal of the Assistance to Address School Dropout Problems Program. Section 504 of the bill would repeal the ''Assistance to Address School Dropout Problems'' program in Part C of Title V of the ESEA.

PUBLIC CHARTER SCHOOLS

Section 505. Redesignation of the Public Charter Schools Program. Section 505 of the bill would redesignate the Public Charter Schools Program, which is currently Part C of Title X of the ESEA, as Part B of Title V of the ESEA. Section 505 would also make necessary conforming changes to carry out the redesignation.

OPTIONS: OPPORTUNITIES TO IMPROVE OUR NATION'S SCHOOLS

Section 506. Options: Opportunities to Improve Our Nation's Schools. Section 506 of the bill would amend Title V of the ESEA to add a proposed new Part C (''Options: Opportunities to Improve Our Nation's Schools'') that would authorize a flexible, competitive grant program to help SEAs and LEAs provide innovative, high-quality public public school choice programs.

Proposed new section 5301 of the ESEA would set forth the findings of the proposed new part and state that its purpose is to identify and support innovative approaches to high-quality public school choice by providing financial assistance for the demonstration, development, implementation, and evaluation of, and dissemination of information about, public school choice projects that stimulate educational innovation for all public schools and contribute to standards-based school reform efforts.

Proposed new section 5302(a) of the ESEA would authorize the Secretary, from funds appropriated under section 5305(a) and not reserved under section 5305(b), to make grants to SEAs and LEAs to support programs that promote innovative approaches to high-quality public school choice. Proposed new section 5302(b) of the ESEA would prohibit grants under this part from exceeding three years.

Proposed new section 5303(a) of the ESEA would authorize funds under the part to be used to demonstrate, develop, implement, evaluate, and disseminate information on innovative approaches to broaden public school choice. Examples of such approaches at the school, district, and State levels would be: (1) inter-district approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools; (2) public elementary and secondary programs that involve partnerships with institutions of higher education and that are located on the campuses of those institutions; (3) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary academic credit; (4) worksite satellite schools, in which SEAs or LEAs form partnerships with public or private employers, to create public schools at parents' places of employment; and (5) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

Proposed new section 5303(b) of the ESEA would require that funds under this part: (1) supplement, and not supplant, non-federal funds expended for existing programs; (2) not be used for transportation; and (3) not be used to fund projects that are specifically authorized under Part A or B of the title.

Proposed new section 5304(a) of the ESEA would require a SEA or LEA desiring to receive a grant under this part to submit an application to the Secretary, in such form and containing such information, as the Secretary may require. Each application would be required to include a description of the program for which funds are sought and the goals for such program, a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-federal projects, and, if the program includes partners, the name of each partner and a description of its responsibilities. Also, each application would be required to include a description of the policies and procedures the applicant will use to ensure its accountability for results, including its goals and performance indicators, and that the program is open and accessible to, and will promote high-academic standards for, all students. This will help ensure broad access to high-quality schools, while allowing, for example, public-private partnerships to create public worksite schools that allow children of employees at the worksite to attend such a school. The Secretary would be required to give a priority to applications for projects that would serve high-poverty LEAs, and would be authorized to give a priority to applications demonstrating that the applicant will carry out its project in partnership with one or more public and private agencies, organizations, and institutions, including institutions of higher education and public and private employers.

Proposed new section 5305(a) of the ESEA would authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to carry out the part. Proposed new section 5305(b) of the ESEA would, from amounts appropriated for any fiscal year, authorize the Secretary to reserve not more than five percent to carry out evaluations, provide technical assistance, and disseminate information. Proposed new section 5305(c) of the ESEA would authorize the Secretary to use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part. Those evaluations would, at a minimum, address: (1) how and the extent to which the programs supported with funds under the part promote educational equity and excellence; and (2) the extent to which public schools of choice supported with funds under the part are held accountable to the public, effective in improving public education, and open and accessible to all students.

TITLE VI—CLASS-SIZE REDUCTION

Section 601, class-size [ESEA, Title VI]. section 601 of the bill would replace Title VI of

the ESEA with a multi-year extension of the 1-year initiative, enacted in the Department's appropriations Act for fiscal year 1999, to help States and LEAs improve educational outcomes through reducing class sizes in the early grades, as follows:

ESEA, §6001, findings. Section 6001 of the ESEA would set out 8 findings in support of the new Title VI.

ESEA, §6002, purpose. Section 6002 of the ESEA would provide that the purpose of Title VI is to help States and LEAs recruit, train, and hire 100,000 additional teachers, in order to: (1) reduce class sizes nationally, in grades 1 through 3, to an average of 18 students per regular classroom; and (2) improve teaching in the early grades so that all students can learn to read independently and well by the end of the third grade.

ESEA, §6003, authorization of appropriations. Section 6003 of the ESEA would authorize the appropriations of such sums as may be necessary to carry out Title VI for fiscal years 2001 through 2005.

ESEA, §6004, allocations to States. Section 6004(a) of the ESEA would direct the Secretary to reserve a total of not more than 1 percent of each year's appropriation for Title VI to make payments, on the basis of their respective needs, to the several outlying areas and to the Secretary of the Interior for activities in schools operated or supported by the Bureau of Indian Affairs (BIA).

After reserving funds for the outlying areas and the BIA, section 6004(b) would direct the Secretary to allocate the remaining amount among the States on the basis of their respective shares under Part A of Title I of the ESEA or under Title II of the ESEA, whichever was greater, for the previous fiscal year. Because these allocations would exceed the amount available, they would then be proportionately reduced. If a State chooses not to participate in the program, or fails to submit an approvable application, the Secretary would reallocate that State's allocation to the remaining States.

ESEA, §6005, applications. Section 6005(a) of the ESEA would require the SEA of each State desiring to receive a Title VI grant to submit an application to the Secretary.

Subsection (b) would require each application to include: (1) the State's goals for using program funds to reduce average class sizes in regular classrooms in grades 1 through 3; (2) a description of the SEA's plan for allocating program funds within the State; (3) a description of how the State will use other funds, including other Federal funds, to reduce class sizes and improve teacher quality and reading achievement within the State; and (4) an assurance that the SEA will submit such reports and information as the Secretary may reasonably require.

Subsection (c) would direct the Secretary to approve a State's application if it meets the requirements of subsections (a) and (b) and holds reasonable promise of achieving the program's purposes.

ESEA, §6006, within-State allocations. Section 6006(a) of the ESEA would permit participating States to reserve up to one percent of each year's Title I allocation for the cost of administering the program, and direct them to distribute all remaining funds to LEAs. A State would distribute 80 percent of its allocation on the basis of the relative number of children from low-income families in LEAs, and the remaining 20 percent on the basis of school-age children enrolled in public and private nonprofit schools in LEAs.

Subsection (b) would provide for the reallocation of an LEA's award to other LEAs if it chooses not to participate or fails to submit an approvable application.

ESEA, §6007, local applications. Section 6007 of the ESEA would require each LEA that wishes to receive Title VI funds to submit an application to its SEA that describes its program to reduce class size by hiring qualified teachers.

ESEA, §6008, uses of funds. Section 6008(a) of the ESEA would permit each participating LEA to use up to 3 percent of its subgrant for the costs of administering its Title VI program.

Subsection (b) would permit each LEA to use up to a total of 15 percent of each year's Title VI funds to: (1) assess new teachers for their competency in content knowledge and teaching skills; (2) assist new teachers to take any tests required to meet State certification requirements; and (3) provide professional development to teachers.

Subsection (c) would require each LEA to use the rest of its Title IV funds to recruit, hire, and train certified teachers for the purpose of reducing class size in grades 1 through 3 to 18 children.

Subsection (d) would prohibit an LEA from using its Title VI funds to increase the salary of, or to provide benefits to, a teacher who it already employs (or has employed).

Subsection (e) would permit an LEA that has already reduced class size in grades 1 through 3 to 18 or fewer children to use its Title VI funds to make further class-size reductions in grades 1 through 3, reduce class sizes in other grades, or for activities, including professional development, to improve teacher quality.

Subsection (f) would permit and LEA whose subgrant is too small to pay the starting salary for a new teacher to use its subgrant funds to form a consortium with one or more other LEAs for the purpose of reducing class size; to help pay the salary of a full-time or part-time teacher hired to reduce class size; or, if the subgrant is less than $10,000, for professional development.

ESEA, §6009, cost-sharing requirement. Section 6009(a) of the ESEA would allow program funds to pay the full cost of local programs under the Act in LEAs with child-poverty rates greater than 50 percent. The maximum Federal share for LEAs with child-poverty rates below 50 percent would be 65 percent.

Subsection (b) would require an LEA to provide the non-Federal shares of a project through cash expenditures from non-Federal sources. However, an LEA operating one or more schoolwide programs under section 1114 of the ESEA could use funds under Part A of Title I of that Act to pay the non-Federal share of activities under this program that benefit those schoolwide programs, so long as the LEA meets the Title I requirement to ensure that services provided with State and local funds in Title I schools are at least comparable to services provided with State and local funds in non-Title I schools. This option would not, however, be available with respect to schools operating schoolwide programs through a waiver of the normal eligibility rules governing schoolwide programs (current section 1114(a)(1)(B), which the bill would re-enact as section 1114(a)(2)).

ESEA, §6010, nonsupplanting. Section 6010 of the ESEA would require each participating LEA to use its Title VI funds to increase the overall amount of its expenditures for the combination of: (1) teachers in regular classrooms in schools receiving assistance; (2) assessing new teachers and assisting them to take tests required for State certification; and (3) professional development for teachers.

ESEA, §6011, annual State reports. Section 6011 of the ESEA would require each participating state to submit an annual report to the Secretary on its activities under Title VI.

ESEA, §6012, participation of private school teachers. Section 6012 of the ESEA would require each LEA to provide for the equitable participation of teachers from private schools in professional development activities it carriers out with program funds.

ESEA, §6013, definition. Section 6013 of the ESEA would define ''State'', for the purpose of Title VI, as meaning each of the 50 States, the District of Columbia, and Puerto Rico. The outlaying areas, which would otherwise be treated as States under the definition in current §14101(27) (to be redesignated as §11101(27)), would be funded through the special reservation in section 6004(a), rather than through the formula allocations to States in section 6004(b).

TITLE VII—BILINGUAL EDUCATION, LANGUAGE ENHANCEMENT, AND LANGUAGE ACQUISITION PROGRAMS

Title VII of the bill would revise Title VII (Bilingual Education, Language Enhancement, and Language Acquisition Programs) of the ESEA to enhance and make more effective the accountability provisions for those receiving grants under Subpart 1 of the title and improve the professional development programs under Subpart 2 of Title VII by eliminating overlap among the different authorized activities and targeting activities on specific areas where assistance is most needed. Other program improvements are also proposed.

BILINGUAL EDUCATION

Section 701. Findings, Policy, and Purpose. Section 701 of the bill would amend sections 7102(a) (Findings) and (b) (Policy) of the ESEA to incorporate recent research findings and to add the policy that limited English proficient students be tested in English after three consecutive years in United States' schools. This requirement is consistent with the school accountability requirements associated with limited English proficient students in section 1111(b)(2)(F)(v) of Title I of the ESEA. Section 701 of the bill would also amend section 7102(c) (Purpose) of the ESEA to add helping to ensure that limited English proficient students master English as a stated purpose and to make minor editorial changes.

Section 702. Authorization of Appropriations for Part A. Section 702 of the bill would amend section 7103(a) of the ESEA to authorize the appropriation of such sums as may be necessary to carry out programs under Part A of the Title from fiscal year 2001 through 2005.

Section 703. Program Development and Enhancement Grants. In order to simplify and improve administration of instructional services grants, section 703 of the bill would amend section 7113 of the ESEA (Enhancement Grants) to consolidate the activities of the Program Development and Implementation Grants program (currently in section 7112 of the ESEA and repealed in section 730 of the bill) and the Enhancement Grants program into a new three-year grant program, ''Program Development and Enhancement Grants.''

Section 703(3) of the bill would require grants to be used to: (1) develop and implement comprehensive, preschool, elementary, or secondary education programs for children and youth with limited English proficiency, that are aligned with standards-based State and local school reform efforts and coordinated with other relevant programs and services; (2) provide high-quality professional development; and (3) require annual assessment of student progress in learning English. Section 703(3) of the bill would also amend current language on allowable activities to emphasize effective instructional practice and the use of technology in the classroom.

Section 703(4) of the bill would authorize the Secretary to give priority to applicants that enroll fewer than 10,000 students and

that have limited or no experience in serving limited English proficient students.

Section 704. Comprehensive School Grants. Section 704 of the bill would amend section 7114 of the ESEA that authorizes five-year Comprehensive School Grants for school-wide instructional programs. Section 704(1) of the bill would revise the purpose of the program. The purpose would be to implement school-wide education programs, in coordination with Title I of the ESEA, for children and youth with limited English proficiency to assist such children and youth to learn English and achieve to challenging State content and performance standards, and to improve, reform, and upgrade relevant programs and operations in schools with significant concentrations of such students or that serve significant numbers of such students.

Section 704(2) of the bill would amend section 7114(b)(2) of the ESEA to replace the termination provisions with a clearer system of accountability requiring the Secretary, before making a continuation award for the fourth year of a program under this section, to determine if the program is making continuous and substantial progress in assisting children and youth with limited English proficiency to learn English and achieve to challenging State content and performance standards. The Secretary would base such determination on the indicators established and data and information collected under the annual evaluations under section 7118 (as redesignated) and such other data and information as the Secretary may require. If the Secretary determines that a recipient requesting a fourth-year continuation award under this section is not making continuous and substantial progress, the recipient would be required to promptly develop and submit to the Secretary a program improvement plan for its program. The Secretary would be required to approve a program improvement plan only if he or she determines that it held reasonable promise of enabling students with limited English proficiency participating in the program to learn English and achieve to challenging State content and performance standards. If the Secretary determines that the recipient is not making substantial progress in implementing the program improvement plan, the Secretary would be required to deny a continuation award.

Section 704(3) of the bill would establish required activities. The required activities would, among other things, include the annual assessment of student progress in learning English. Section 704(3) of the bill would also amend current language on allowable activities to, among other things, emphasize effective instructional practice and the use of technology in the classroom.

Section 704(4) of the bill would limit the period during which grant funds may be used for planning to 90 days and limit the number of schools that may be included in the grant to two. These changes would ensure more effective use of Federal assistance.

Section 705. Systemwide Improvement Grants. Section 705 of the bill would amend section 7115 (Systemwide Improvement Grants) of the ESEA that authorizes five-year grants for projects within an entire school district. Section 705(1) of the bill would amend section 7115(a) of the ESEA to make editorial and conforming changes to that subsection.

Section 705(2) of the bill would amend section 7115(b)(2) of the ESEA to replace the termination provisions with a clearer system of accountability requiring the Secretary, before making a continuation award for the fourth year of a program under this section, to determine if the program is making continuous and substantial progress in assisting children and youth with limited English proficiency to learn English and achieve to challenging State content and performance standards. The Secretary would base such determination on the indicators established and data and information collected under the annual evaluations under section 7118 (as redesignated), and such other data and information as the Secretary may require. If the Secretary determines that a recipient requesting a fourth-year continuation award under this section is not making continuous and substantial progress, the recipient would be required to promptly develop and submit to the Secretary a program improvement plan for its program. The Secretary would be required to approve a program improvement plan only if he or she determines that it held reasonable promise of enabling students with limited English proficiency participating in the program to learn English and achieve to challenging State content and performance standards. If the Secretary determines that the recipient is not making substantial progress in implementing the program improvement plan, the Secretary would be required to deny a continuation award.

Section 705(3) of the bill would establish required activities, including building school district capacity to continue to operate similar instructional programs once Federal funding is no longer available, aligning programs for limited English proficient students with school, district, and State reform efforts and coordinating with other relevant programs (such as Title I), and annually assessing student progress in learning English. The required activities would help ensure that projects effectively promote educational reform for limited English proficient students. Section 705(3) of the bill would also amend current language on allowable activities to, among other things, emphasize effective instructional practice, developing student proficiency in two languages, and the use of technology in the classroom.

Section 706. Applications for Awards under Subpart 1. Section 706 of the bill would amend section 7116 of the ESEA (Applications) to make changes designed to increase program accountability.

Section 706(1) of the bill would amend section 7116(b) of the ESEA (State Review and Comments) to clarify that SEAs must not only review Subpart 1 applications, but also transmit that review in writing to the Department.

Section 706(2) of the bill would amend section 7116(f) of the ESEA (Required Documentation) to require documentation that the leadership of each participating school had been involved in the development and planning of the program in the school.

Section 706(3) of the bill would amend section 7116(g) of the ESEA (Contents) to reorganize paragraph (A) and to add to the list of data to be included in the application, data on: (1) current achievement data of the limited English proficient students to be served by the program (and in comparison to their English proficient peers) in reading or language arts (in English and in the native language if applicable) and in math; (2) reclassification rates for limited English proficient students in the district; (3) the previous schooling experiences of participating students; and (4) the professional development needs of the instructional personnel who will provide services for limited English proficient students, including the need for certified teachers; and (5) how the grant would supplement the basic services provided to limited English proficient students. Many school districts already collect such data and its collection would help ensure that data submitted with the application could be used to establish a baseline against which instructional progress could be measured.

Section 706(3) of the bill would also make editorial changes to section 7116(g)(1)(B) of the ESEA and require, in section 7116(g)(1)(E) of the ESEA, an assurance that the applicant will employ teachers in the proposed program who individually, or in combination, are proficient in the native language of the majority of students they teach, if instruction in the program is also in the native language.

Section 706(4) of the bill would amend section 7116(i) of the ESEA (Priorities and Special Rules) to add two new priorities for applicants that experience a dramatic increase in the number of limited English proficient students enrolled and demonstrate that they have a proven record of success in helping children and youth with limited English proficiency learn English and achieve to high academic standards and make editorial revisions.

Section 707. Evaluations under Subpart 1. Section 707(1) of the bill would amend current section 7123(a) of the ESEA (Evaluation) to require that grantees conduct an annual, rather than biennial, evaluation. This change would enhance the Department's ability to hold projects accountable for teaching English to limited English proficient students and to determine the extent to which these students are achieving to State standards.

Section 707(2) of the bill would revise the list of evaluation components, in section 7123(c) of the ESEA, to require a recipient to: (1) use the data provided in the application as baseline data against which to report academic achievement and gains in English proficiency for students in the program; (2) report on the validity and reliability of all instruments used to measure student progress; and (3) enable results to be disaggregated by such relevant factors as a student's grade, gender, and language group and whether the student has a disability. Evaluations would be required to include: (1) data on the project's progress in achieving its objectives; (2) data showing the extent to which all students served by the program are achieving to the State's student performance standards; (3) program implementation indicators that address each of the program's objectives and components, including the extent to which professional development activities have resulted in improved classroom practices and improved student achievement; (4) a description of how the activities funded under the grant are coordinated and integrated with the overall school program and other Federal, State, or local programs serving limited English proficient children and youth; and (5) such other information as the Secretary may require. This revision is necessary to ensure that grantees submit data needed to make a determination on whether the project should be continued at the end of the third year or at the end of the fourth year, and also provide the Department with data needed to assess grantee progress towards meeting goals established for the Bilingual Education program under the Government Performance and Results Act (GPRA).

Section 707(3) of the bill would add a new subsection (d) (Performance Measures) that would require the Secretary to establish performance indicators to determine if programs under sections 7113 and 7114 (as redesignated) are making continuous and substantial progress, and allow the Secretary to establish such indicators to determine if programs under section 7112 (as redesignated) are making continuous and substantial progress, toward assisting children and youth with limited English proficiency to learn English and achieve to challenging State content and performance standards.

Section 708. Research. Section 708 of the bill would amend current section 7231 of the ESEA (Research) to support the use of the

research authority to gather data needed to assess the Department's progress in meeting goals established for the Bilingual Education program under GPRA.

Section 708(1) of the bill would amend sections 7132 (a) (Administration) and (b) (Requirements) of the ESEA to eliminate the requirement that research be conducted through the Office of Educational Research and Improvement in collaboration with the Office of Bilingual Education and Minority Languages Affairs and also to provide a list of allowable research activities (including data collection needed for compliance with GPRA and identifying technology-based approaches that show effectiveness in helping limited English proficient students reach challenging State standards).

Section 708(3) of the bill would make conforming changes to sections 7321 (c)(1) and (2) of the ESEA and eliminate the authorization for grantees under Subparts 1 and 2 to submit research applications at the same time as their applications under Subparts 1 and 2. The current provision unnecessarily complicates the conduct of these grant competitions. Section 708(4) of the bill would eliminate section 7132(e) (Data Collection) since data collection is an activity authorized in subsection (a).

Section 709. Academic Excellence Awards. Section 709 of the bill would replace current section 7133 of the ESEA (Academic Excellence) that authorizes grants, contracts, and cooperative agreements to promote the adoption of promising instructional and professional development programs, with a State discretionary grant program. Under the new program, the Secretary would be authorized to make grants to SEAs to assist them in recognizing LEAs and other public and non-profit entities whose programs have demonstrated significant progress in assisting limited English proficient students to learn English and to meet the same challenging State content standards expected of all children and youth, within three years. The expanded State role proposed in these amendments is designed to encourage and reward exceptional programs and help disseminate information on effective instructional practices for serving limited English proficient students.

Section 710. State Grant Program. Section 710 of the bill would amend subsection (c) (Uses of Funds) of section 7134 (State Grant Program) of the ESEA to require State to use funds under the section to: (1) assist LEAs with program design, capacity building, assessment of student performance, program evaluation, and development of data collection and accountability systems for limited English proficient students that are aligned with State reform efforts; and (2) collect data on limited English proficient populations in the State and the educational programs and services available to such populations. This amendment is designed to improve the quality of data collected by LEAs relating to services for limited English proficient students.

Section 711. National Clearinghouse on the Education of Children and Youth with Limited English Proficiency. Section 711 would amend section 7135 of the ESEA (National Clearinghouse for Bilingual Education) to rename the Clearinghouse the ''National Clearinghouse for the Education of Children and Youth with Limited English Proficiency'', and to eliminate ambiguous and burdensome requirements that the Clearinghouse be administered as an adjunct to the Educational Resources Information Center Clearinghouse system, develop a data base management and monitoring system, and develop, maintain, and disseminate a listing of bilingual education professionals.

Section 712. Instructional Materials Development. Section 712 of the bill would amend section 7136 of the ESEA (Instructional Materials) to expand the current authorization for grants to develop, publish, and disseminate instructional materials. The current authorization is limited to Native American, Native Hawaiian, Native Pacific Islanders, and other languages of outlying areas. The amendment would add other low-incidence languages in the United States for which instructional materials are not readily available. The kinds of materials that may be developed would also be expanded to include materials on State content standards and assessments for dissemination to parents of limited English proficient students. The proposed amendment recognizes that instructional materials may be needed in languages other than those listed in the current statute and that materials may be needed to prepare parents to become more involved in the education of their children.

Section 712 of the bill would also require the Secretary to give priority to applications for developing instructional materials in languages indigenous to the United States or to the outlying territories and for developing and evaluating instructional materials that reflect challenging State and local content standards, in collaboration with activities assisted under Subpart 1 and section 7124.

Section 713. Purpose of Subpart 3. Section 713 of the bill would amend section 7141 (Purpose) of Subpart 3 (Professional Development) of Part A of the title to eliminate a reference to dissemination of information. This activity is not directly related to professional development.

Section 714. Training for all Teachers Program. Section 714 of the bill would amend section 7142 of the ESEA (Training for all Teachers Program) to limit grants to ongoing professional development. This change would provide greater focus to the activity since the current statute covers both inservice and preservice professional development. The Secretary would be authorized to award grants to LEAs or to one or more LEAs in consortium with one or more institutions of higher education, SEAs, or nonprofit organizations. This change would help ensure that the professional development supported by the grant directly addresses the staffing needs of one or more LEAs.

Section 7142 of the ESEA would be further amended to reduce the grant period from 5 to 3 years, thus allowing the program to assist a greater number of communities. Also, funded professional development activities would be required to be of high-quality and long-term in nature, thus no longer could they be simply a few weekend seminars. The list of allowable activities would be expanded to, among other things, include induction programs, clarifying that grantees may use grants to cover the costs of coaching by teachers experienced in serving limited English proficient students for teachers who are preparing to serve these students, and support for teacher use of education technologies. The proposed amendments reflect current research findings on effective professional development practices.

Section 715. Bilingual Education Teachers and Personnel Grants. Section 715 of the bill would amend section 7143 of the ESEA (Bilingual Education Teachers and Personnel Grants) to limit grants to institutions of higher education for preservice professional development. This change would provide greater focus to the activity since the current statute covers both inservice and preservice professional development.

Also, section 715(3) of the bill would add a new subsection (d) to section requiring that funds be used to put in place a course of study that prepares teachers to serve limited English proficient students, integrate course content relating to meeting the needs of limited English proficient students into all programs for prospective teachers, assign tenured faculty to train teachers to serve limited English proficient students, incorporate State content and performance standards into the institution's coursework, and expand clinical experiences for participants. The new subsection would also authorized grantees to use funds for such activities as supporting partnerships with LEAs, restructuring higher education course content, assisting other institutions of higher education to improve the quality of relevant professional development programs and expanding recruitment efforts for students who will participate in relevant professional development programs.

The proposed amendments recognize that all prospective teachers should have a basic understanding of effective methods for serving limited English proficient students. Because of the rapid growth in this population, all teachers can expect to have limited English proficient students in their classrooms at some point in their teaching career. These amendments also recognize the importance of creating a closer link between schools of education that produce new teachers and the schools that hire them.

Section 716. Bilingual Education Career Ladder Program. Section 716 of the bill would amend section 7144 of the ESEA (Bilingual Education Career Ladder Program) to authorize grants to a consortia of one or more institutions of higher education and one or more institutions of higher education and one or more SEAs or LEAs to develop and implement bilingual education career ladder programs. A bilingual education career ladder program would be a program designed to provide high-quality, pre-baccalaureate coursework and teacher training to educational personnel who do not have a baccalaureate degree and that would lead to timely receipt of a baccalaureate degree and certification or licensure of program participants as bilingual education teachers or other educational personnel who serve limited English proficient students. Recipients of grants would be required to coordinate with programs under title II of the Higher Education Act of 1965, and other relevant programs, for the recruitment and retention of bilingual students in postsecondary programs to train them to become bilingual educators, and make use of all existing sources of student financial aid before using grant funds to pay tuition and stipends for participating students.

Also, section 716(4) of the bill would amend section 7144(d) of the ESEA (Special Considerations) to eliminate the current special considerations and require the Secretary, instead, to give special consideration to applications that provide training in English as a second language, including developing proficiency in the instructional use of English and, as appropriate, a second language in classroom contexts.

Section 717. Graduate Fellowships in Bilingual Education Program. Section 717 of the bill would amend section 7145(a) of the ESEA (Authorization) in the Graduate Fellowships in Bilingual Education Program, to eliminate the authorization for fellowships at the post-doctoral level and the requirement that the Secretary make a specific number of fellowship awards in any given year. Masters and doctoral level fellows are more likely to provide a direct benefit to classroom instruction than fellows at the post-doctoral level.

Section 718. Applications for Awards under Subpart 3. Section 718 of the bill would amend section 7146 of the ESEA (Application) to clarify that the State educational agency must review and submit written comments on all applications for professional development grants, with the exception of those for fellowships, to the Secretary.

Section 719. Evaluations under Subpart 3. Section 719 of the bill would amend section 7149 of the ESEA (Program Evaluations) to require an annual evaluation and to clarify evaluation requirements. The purpose of these proposed amendments is to increase project accountability and ensure that the Department receives data from grantees that is required to address performance goals established under the GPRA.

Section 720. Transition. Section 720 of the bill would amend section 7161 of the ESEA (Transition) to provide that a recipient of a grant under subpart 1 of Part A of this title that is in its third or fourth year of the grant on the day preceding the date of enactment of the Educational Excellence for All Children Act of 1999 shall be eligible to receive continuation funding under the terms and conditions of the original grant.

EMERGENCY IMMIGRANT EDUCATION PROGRAM

Section 721. Findings of the emergency Immigrant Education Program. Section 721 of the bill would amend section 7301 (Findings and Purpose) of Part C (Emergency Immigrant Education Program) of Title VII of the ESEA to add an additional finding to better justify the program.

Section 722. State Administrative Costs. Section 722 of the bill would amend section 7302 of the ESEA (State Administrative Costs) to authorize States to use up to 2 percent of their grant for administrative costs if they distribute funds to LEAs within the State on a competitive basis. The current provision caps State administrative costs at 1.5 percent, which is insufficient to cover the costs of holding a State discretionary grant competition.

Section 723. Competitive State Grants to Local Educational Agencies. Section 723 of the bill would amend section 7304(e)(1) of the ESEA to eliminate the $50 million appropriations trigger on, and the 20 percent cap for, allowing States each year to reserve funds from their program allotments and award grants, on a competitive basis, to LEAs with the State. This change reflects current budget policy and practice of allowing State recipients the opportunity to allow LEAs to compete for funds.

Section 724. Authorization of Appropriations for Part C. Section 724 of the bill you amend section 7309 of the ESEA (Authorizations of Appropriations) to authorize the appropriation of such sums as may be necessary for each of fiscal years 2001 through 2005 to carry out Part C of Title VII.

GENERAL PROVISIONS

Section 725. Definitions. Section 725 of the bill would amend section 7501 (Definitions; Regulations) of Part E (General provisions) of Title VII of the ESEA to add a definition of ''reclassification rate,'' a term used in the proposed amendments to the Applications and Evaluations sections of Subpart 1 of Part A of Title VII of the ESEA. The term would mean the annual percentage of limited English proficient students who have met the State criteria for no longer being considered limited English proficient. Also, the current definition of ''Special Alternative Instructional Program'', would be eliminated.

Section 726. Regulations, Parental Notification, and Use of Paraprofessionals. Section 726 of the bill would amend section 7502 (Regulations and Notification) of Part E to add requirements for projects funded under subpart 1 of Part A of the title relating to parental notification and the use of instructional staff who are not certified in the field in which they teach. Section 726(1) of the bill would amend the section heading to read: ''REGULATIONS, PARENTAL NOTIFICATION, AND USE OF PARAPROFESSIONALS''.

Section 726(2) of the bill would amend section 7502(b) (Parental Notification) of the ESEA by making conforming amendments in paragraphs (1)(A) and (C) of the subsection and amending paragraph (2)(A) of the subsection to change the paragraph heading to ''Option to Withdraw'' and to require a recipient of funds under Subpart 1 of Part A to provide a written notice to parents of children who will participate in the programs under that subpart, in a form and language understandable to the parents, that informs them that they may withdraw their child from the program at any time.

Section 726(3) of the bill would add a new subsection (c) to require that, on the date of enactment of the Educational Excellence for All Children Act of 1999, all new staff hired to provide academic instruction in programs supported under Part A, Subpart 1, will be in accordance with the requirements of section 1119(c) of the ESEA, relating to the employment of paraprofessionals. These amendments are designed to lead to an improvement of the professional skills of instructional staff providing services to limited English proficient students.

REPEALS, REDESIGNATIONS, AND CONFORMING AMENDMENTS

Section 727. Terminology. Section 727 of the bill would amend subparts 1 and 2 of Part A and section 7501(6) of the ESEA to conform references to bilingual education and special alternative instruction programs to instructional programs for children and youth with limited English proficiency.

Section 728. Repeals. Section 730 of the bill would repeal current sections 7112, 7117, 7119, 7120, 7121, 7147 and Part B of Title VII of the ESEA.

Section 7112 would no longer be needed since the authorized activity would be consolidated with the activity authorized by Section 7113.

Section 7117 (Intensified Instruction), 7119 (Subgrants), 7120 (Priority on Funding), and 7121 (Coordination) of the ESEA would be repealed since these sections repeat language appearing elsewhere in the statute or cover situations that are unlikely to occur.

Section 7147 (Program Requirements) of the ESEA would be repealed because it requires that all professional development grants assist educational personnel in meeting State and local certification requirements. This requirement is not relevant to all of the authorized professional development activities.

Part B of Title VII of the ESEA would be moved to new Part I of Title X of the ESEA.

Section 729. Redesignations and Conforming Amendments. Section 731 of the bill would provide for the redesignation of various sections of the ESEA and for conforming references to those sections and to other sections of the ESEA that have been changed.

TITLE VIII—IMPACT AID

Title VIII of the bill would amend Title VIII of the ESEA, which authorizes the Impact Aid program.

Section 801, purpose [ESEA, §8001]. Section 801 of the bill would amend section 8001 of the ESEA to provide that the purpose of the Impact Aid program is to provide assistance to certain LEAs that are financially burdened as a result of activities of the Federal Government carried out in their jurisdictions, in order to help those LEAs provide educational services to their children, including federally connected children, so that they can meet challenging State standards. This will provide a succinct statement of the program's purpose, as is typical of other programs, in place of the statement in the current statute, which is overly long and which refers to certain categories of eligibility that other provisions of the bill would repeal.

Section 802, payments relating to Federal acquisition of real property [ESEA, §8002]. Section 802 of the bill would amend section 8002 of the ESEA, which authorizes the Secretary to partially compensate certain LEAs for revenue lost due to the presence of non-taxable Federal property, such as a military base or a national park, in their jurisdictions. The amendments made by section 8002 would better target funds on the LEAs most burdened by the presence of Federal property, so that appropriations for section 8002, which are not warranted under current law, may be justified in the future.

Section 802(a)(1) of the bill would delete unneeded language in section 8002(a) of the ESEA that refers to the fiscal years for which payments under section 8002 are authorized. That issue is fully covered by the authorization of appropriations in section 8014 of the ESEA.

Section 802(a)(2) would delete an alternative eligibility criterion (current section 8002(a)(1)(C)(ii)), which was enacted to benefit a single LEA, and would add a requirement that the Federal property claimed as the basis of eligibility have a current aggregate assessed value (as determined under section 8002(b)(3)) that is at least 10 percent of the total assessed value of all real property in the LEA. (The current statutory requirement that Federal property constituted 10 percent of the total assessed value when the Federal Government acquired it would be retained.) The new provision will ensure that payments under section 8002 are made only to LEAs in which the presence of Federal property continues to have a significant effect on the local tax base.

Section 802(b) would repeal subsections (d) through (g) and (i) through (k) of section 8002. Each of these provisions was enacted for the benefit of a single LEA (or a limited number of LEAs) and describes a situation in which the burden, if any, from Federal property is not sufficient to warrant compensation from Federal taxpayers. The presence of these provisions reduces the amount of funds available to LEAs that legitimately request funds under this authority.

Section 802(c) would replace the soon-to-be obsolete ''hold harmless'' language in section 8002(h) of the ESEA with language providing for a three-year phase-out of payments to LEAs that received section 8002 payments for FY 1999, but that would no longer be eligible because of the new requirement, discussed above, that Federal property constitute at least ten percent of the current assessed value of all real property in the LEA. This phase-out will provide a fair and reasonable period for these LEAs to adjust to the loss of their eligibility, while making more funds available to those LEAs whose local tax bases continue to be affected by the presence of Federal property.

Section 802(d) would make minor conforming amendments to section 8002(b)(1).

Section 803, payments for eligible federally connected children [ESEA, §8003]. Section 803(a)(1) of the bill would amend the list of categories of children who may be counted for purposes of basic support payments under section 8003(a), by deleting the various categories of so-called ''(b)'' children, whose attendance at LEA schools imposes a much lower burden that does not warrant Federal compensation. As amended, these payments would be made on behalf of approximately 300,000 ''(a)'' students throughout the Nation, i.e.: (1) children of Federal employees who both live and work on Federal property; (2) children of military personnel (and other members of the uniformed services) living on Federal property; (3) children living on Indian lands; and (4) children of foreign military officers living on Federal property.

Section 803(a)(2) would conform the statement of weighted student units in section

8003(a)(2) to reflect the elimination of ''(b)'' students from eligibility.

Section 803(a)(3) would delete section 8003(a) (3) and (4), each of which relates to categories of children whose eligibility would be ended under paragraph (1)

Section 803(b)(1)(B) would delete the requirement that an LEA have at least 400 eligible students (or that those students constitute at least three percent of its average daily attendance) in order to receive a payment. Thus, any LEA with ''(a)'' children would qualify for a basic support payment.

Section 803(b)(1)(D) would amend section 8003(b)(1)(C) (which would be redesignated as subparagraph (B)) to delete two of the four options for determining an LEA's local contribution rate (LCR), which is used to compute its maximum payment, and to add a third method to the remaining two. These changes would make payments more closely reflect the actual local cost of educating students because each of the three options, unlike the two options that would be deleted, would include a measure of the amount or proportion of funds that are provided at the local level.

Section 803(b)(1)(E) would add a new subparagraph (C) to section 8003(b)(1) to provide that, generally, local contribution rates would be determined using data from the third preceding fiscal year. This is the most recent fiscal year for which satisfactory data on average per-pupil expenditures are usually available.

Section 803(b)(2)(B) would amend section 8003(b)(2)(B), which describes how the Secretary computes each LEA's ''learning opportunity threshold'' (LOT), a factor used in determining actual payment amounts when sufficient funds are not available, as is the norm, to pay the maximum statutory amounts. Under current law, an LEA's LOT is a percentage, which may not exceed 100, computed by adding the percentage of its students who are federally connected and the percentage that its maximum payment is of its total current expenditures. Under the amendments, an LEA's LOT would be 50 percent plus one-half of the percentage of its students who are federally connected. The proposed LOT would consistently favor LEAs with high concentrations of federally connected students, which face a disproportionately high burden as a result of Federal activities, unlike the current statute, which allows an LEA to reach a LOT of 100 percent even though the federally connected students constitute considerably less than 100 percent of its total student body. The revised LOT would also remove the current incentive for LEAs to reduce their local tax effort in order to earn a higher LOT.

Section 803(b)(2)(B)(i) would delete section 8003(b)(2)(B)(ii), which would no longer be needed in light of the changes to the LOT calculation described above. This section would also delete section 8003(b)(2)(B)(iii), which inappropriately benefits a single LEA by providing a different method of calculating its LOT that is not available to any other LEA.

Section 803(b)(2)(C) would amend section 8003(b)(2)(C) to clarify that payments are proportionately increased from the amounts determined under the LOT provisions (but not to exceed the statutory maximums) when available funds are sufficient to make payments above the LOT-based amounts.

Section 803(b)(3) would delete section 8003(b)(3), which provides an unwarranted benefit to a particular State in which there is only one LEA by requiring the Secretary to treat each of the administrative districts of that LEA as if they were individual LEAs. As with other LEAs (many of which have more students than the State in question and that also have internal administrative districts), this LEA's eligibility for a payment, and the amount of any payment, should be determined with regard to the entire LEA, not its administrative units.

Section 803(c) would make a technical amendment to section 8003(c) of the ESEA, which generally requires the use of data from the immediately preceding fiscal year in making determinations under section 8003, to reflect the addition of section 8003(b)(1)(C), which provides for the use of data from the third preceding fiscal year in determining LEA local contribution rates.

Section 803(d) would amend section 8003(d) of the ESEA, which authorizes additional payments to LEAs on behalf of children with disabilities, to conform to the deletion of ''(b)'' children from eligibility for basic support payments, and to reflect the fact that some of these children may be eligible for early intervention services, rather than a free appropriate public education, under the Individuals with Disabilities Education Act.

Section 803(e) would delete the ''hold-harmless'' provisions relating to basic support payments in section 8003(e) of the ESEA. By guaranteeing that certain LEAs continue to receive a high percentage of the amounts they received in prior years, without regard to current circumstances, these provisions inappropriately divert a substantial amount of funds from LEAs that have a greater need, based on the statutory criteria.

Section 803(f) of the bill would amend section 8003(f) of the ESEA, which authorizes additional payments to LEAs that are heavily impacted by the presence of federally connected children in their schools. In general, the amendments to this provision are designed to ensure that eligibility for these additional payments is restricted to those relatively few LEAs for whom it is warranted, and that the amounts of those payments accurately reflect the financial burden caused by a large Federal presence in those LEAs.

Under section 8003(f)(2), an LEA would have to meet each of three criteria to qualify for a payment. First, federally connected children (i.e., ''(a)'' children) would have to constitute at least 40 percent of the LEA's enrollment and the LEA would have to have a tax rate for general-fund purposes that is at least 100 percent of the average tax rate of comparable LEAs in the State. Any LEA whose boundaries are the same as those of a military installation would also qualify. Second, the LEA would have to be exercising due diligence to obtain financial assistance from the State and from other sources. Third, the State would have to make State aid available to the LEA on at least as favorable a basis as it does to other LEAs.

Section 8003(f)(3) would replace the highly complicated provisions of current law relating to the computation of payment amounts for heavily impacted LEAs, including its multiple formulas, with a single formula that, for each eligible LEA, would factor in per-pupil expenditures, the number of its federally connected children, the amount available to it from other sources for current expenditures, and the amount of basic support payments it receives under section 8003(b) and the amount of supplemental payments for children with disabilities it receives under section 8003(d).

Section 8003(f)(4) would direct the Secretary, in determining eligibility and payment amounts for heavily impact LEAs, to use data from the second preceding fiscal year, if those data are provided by the affected LEA (or the SEA) within 60 days of being requested by the Secretary to do so. If any of those data are not provided by that time, the Secretary would use data from the most recent fiscal year for which satisfactory data are available. This should provide ample time for LEAs (and States, as may be necessary for certain data) to provide that information so that the Secretary can make payments to LEAs, for whom these funds constitute a substantial portion of their budgets, on a timely basis.

Section 803(g) of the bill would delete section 8003(g) of the ESEA, which authorizes additional payments to LEAs with high concentrations of children with severe disabilities. (These payments are separate from the payments for children with disabilities under section 8003(d), which the bill would continue to authorize.) This complicated authority has never been funded.

Section 803(h) would amend section 8003(h) of the ESEA to prohibit an LEA from receiving a payment under section 8003 on behalf of federally connected children if Federal funds (other than Impact Aid funds) provide a substantial portion of their educational program. This provision, which would codify the Department's regulations (see 34 CFR 222.30(2)(ii)), recognizes that the responsibility for the costs of a child's basic education rests with an LEA and that, if the Federal Government is already paying a substantial portion of those costs through some other program, it should provide additional funds on behalf of that child through the Impact Aid program.

Section 803(i) of the bill would delete the requirement, in section 8003(i) of the ESEA, that LEAs maintain their fiscal efforts for education from year to year as a condition of receiving a payment under either section 8002 or section 8003. While appropriate in other Federal education programs that are meant to provide funds for supplemental services, or to benefit children with particular needs, a maintenance-of-effort requirement is not appropriate for the Impact Aid program, which is intended to help LEAs meet the local costs of providing a free public education to federally connected children.

Section 804, policies and procedures relating to children residing on Indian lands [ESEA, §8004]. Section 804(1) of the bill would change the heading of section 8004 of the ESEA to ''Indian Community Participation'', to reflect amendments the bill would make to this section.

Section 804(2) would retain the current requirements of section 8004(a) of the ESEA under which an LEA that claim children residing on Indian lands in its application for Impact Aid funds must ensure that the parents of Indian children and Indian tribes are afforded an opportunity to present their views and make recommendations on the unique educational needs of those children and how those children may realize the benefits of the LEA's educational programs and activities. Section 804(2) would also add language providing that an LEA that receives an Indian Education Program grant under Subpart 1 of Part A of Title IX shall meet the requirements described in the previous sentence through activities planned and carried out by the Indian parent committee established under the Indian Education program, and could choose to form such a committee for that purpose if it is not participating in the Title IX program. An LEA could meet its obligations under section 8004(a) by complying with the parental involvement provisions of Title I and must comply with those provisions for Indian children who it serves under Title I. Finally, an LEA could use any of its section 8003 funds (except for the supplemental funds provided on behalf of children with disabilities) for activities designed to increase tribal and parental involvement in the education of Indian children.

Section 804(3) would streamline the language in section 8004(b), relating to LEA retention of records to demonstrate its compliance with section 8004(a), without changing the substance of that provision.

Section 804(4) would delete subsection (c) of section 8004, which automatically waives the substantive requirement of subsection (a) and the record-keeping requirement of subsection (b) with respect to the children of any Indian tribe that provides the LEA a written statement that it is satisfied with the educational services the LEA is providing those children. The proposed amendments relating to community involvement are sufficiently important that all affected LEAs should comply with them and keep records to document their compliance. Removing this waiver provision would also be consistent with the prohibition on waiving any statutory or regulatory requirements relating to parental participation and involvement that applies to the Secretary's general authority to issue waivers across the entire range of ESEA programs. *See* §14401(c)(6) of the ESEA.

Section 805, applications for payments under sections 8002 and 8003 [ESEA, §8005]. Section 805 of the bill would amend section 8005 of the ESEA, relating to applications for payments under sections 8002 and 8003, by: (1) conforming a reference to the amended section 8004 in subsection (b)(2); (2) deleting a reference in subsection (d)(2) to section 8003(e), to reflect the proposed repeal of that ''hold-harmless'' provision; and (3) deleting subsection (d)(4), which provides an unwarranted benefit to a single State.

Section 806, payments for sudden and substantial increases in attendance of military dependents [ESEA, §8006]. Section 806 of the bill would repeal section 8006 of the ESEA, which authorizes payments to LEAs with sudden and substantial increases in attendance of military dependents. This authority has never been used and is not needed.

Section 807, construction [ESEA, §8007]. Section 807 of the bill would amend, in its entirety, section 8007 of the ESEA, which authorizes grants to certain categories of LEAs to support the construction or renovation of schools. As amended, section 8007(a) would authorize assistance only to an LEA that receives a basic support payment under section 8003 and in which children residing on Indian lands make up at least half of the average daily attendance (one of the current eligible categories). This limitation on eligibility would target limited construction funds on LEAs with substantial school-construction needs and severely limited ability to meet those needs.

Subsection (b) of section 8007 would require an interested LEA to submit an application to the Secretary, including an assessment of its school-construction needs.

Subsection (c) would provide that available funds would be allocated to qualifying LEAs in proportion to their respective numbers of children residing on Indian lands.

Subsection (d) would set the maximum Federal portion of the cost of an assisted project at 50 percent, and give an LEA three years after its proposal is approved to demonstrate that it can provide its share of the project's cost.

Subsection (e) would clarify that an LEA could use a grant under this section for the minimum initial equipment necessary for the operation of the new or renovated school, as well as for construction.

Section 808, facilities [ESEA, §8008]. Section 808 would make a conforming amendment to section 8008 of the ESEA, relating to certain school buildings that are owned by the Department but used by LEAs to serve dependents of military personnel, to reflect the revised authorization of appropriations in section 8014.

Section 809, State consideration of payments in providing State aid [ESEA, §8009]. Section 809 of the bill would amend section 8009 of the ESEA, which generally prohibits a State from taking an LEA's Impact Aid payments into account in determining the LEA's eligibility for State aid (or the amount of that aid) unless the Secretary certifies that the State has in effect a school-finance-equalization plan that meets certain criteria.

Section 809(2) would add, to section 8009(b)(1)'s statement of preconditions for State consideration of Impact Aid payments, a requirement that the average per-pupil expenditure (APPE) in the State be at least 80 percent of the APPE in the 50 States and the District of Columbia. This will help ensure that LEAs in States with comparatively low expenditures for education receive adequate funds before the State reduces State aid on account of Impact Aid payments.

Section 809 would also make technical and conforming amendments to section 8009.

Section 810, Federal administration [ESEA, §8010]. Section 810 of the bill would repeal subsection (c) of section 8010 of the ESEA. Subsection (c)(1) sets out a special rule that does not apply after fiscal year 1995. Subsections (c)(2) and (3) provide an unwarranted special benefit to a single LEA.

Section 811, administrative hearings and judicial review [ESEA, §8011]. Section 811 of the bill makes a technical amendment to section 8011(a) to streamline that provision.

Section 812, Forgiveness of overpayments [ESEA, §8012]. Section 812 of the bill makes a technical amendment to section 8012 to streamline that provision.

Section 813, definitions (ESEA, §8013]. Section 813(1) of the bill would conform the definition of ''current expenditures'' in section 8013(4) of the ESEA to conform to the proposed repeal of current Title VI and to a corresponding amendment to a similar definition of the term in current section 1410(11).

Section 813(2) would amend the definition of ''Federal property''(an important basis of eligibility for Impact Aid payments) in section 8013(5) to delete references to certain property that would not normally be regraded as Federal property; these references were enacted for the special benefit of a small number of LEAs. This property does not merit payment under the Impact Aid program.

Section 813(3) through (7) would make technical and conforming amendments to other definitions in section 8013, and delete the definitions of ''low-rent housing'' and ''revenue derived from local sources'', which are respectively, no longer needed and an unwarranted special-interest provision.

Section 814, authorization of appropriations [ESEA, §8014]. Section 814 of the bill would amend section 8014 of the ESEA to authorize the appropriation of funds to carry out the various Impact Aid authorities through fiscal year 2005. New subsection (b) of section 8014 would provide that funds appropriated for school construction under section 8007 and for facilities maintenance under section 8008 would be available to the Secretary until expended. However, if appropriations acts, which normally contain provisions governing the applicability of the funds they appropriate, provide a different rule than the one in proposed section 8014(b), the appropriations acts would govern.

TITLE IX—INDIAN, NATIVE HAWAIIAN, AND ALASKA NATIVE EDUCATION

Part A—Indian Education

Part A of Title IX of the bill would make various amendments to Part A of Title IX of the ESEA, which authorizes a program of formula grants to LEAs, as well as certain demonstration programs and related activities, to increase educational achievement of American Indian and Alaska Native students.

Section 901, findings and purpose [ESEA, §9101 and 9102]. Section 901 of the bill would amend the statements of findings and purpose in sections 9101 and 9102 of the ESEA by changing references to the ''special educational and culturally related academic needs'' of American Indian and Alaska Native students to refer instead to their ''unique educational and culturally related academic needs.''

Section 902, grants to local educational agencies [ESEA, §9112]. Section 902 of the bill would amend section 9112 of the ESEA, which authorizes formula grants to certain LEAs educating Indian children. Current section 9112(b) provides that when an eligible LEA does not establish the Indian parent committee required by the statute, an Indian tribe that represents at least half of the LEA's Indian students may apply for the LEA's grant and is to be treated by the Secretary as if it were an LEA. The amendment would codify the Department's interpretation that, in that situation, the tribe is not subject to the statutory requirements relating to the parent committee, maintenance of effort, or submission of its grant application to the State educational agency for review. These requirements would be inappropriate to apply to an Indian tribe, as they are, under section 9113(d), for schools operated or supported by the Bureau of Indian Affairs (BIA).

Section 903, amount of grants [ESEA, §9113]. Section 903(1) of the bill would make a technical amendment to section 9113(b)(2) of the ESEA, which allows consortia of eligible LEAs to apply for grants.

Section 903(2) would revise section 9113(d), relating to grants to schools operated or supported by the BIA, to clarify that those schools must submit an application to the Secretary and that they are generally to be treated as LEAs for the purpose of the formula grant program, except that they are not subject to the statutory requirements relating to parent committees, maintenance of effort, or submission of grant applications to the SEA for review. These requirements would be inappropriate to apply to these schools, as they would be for Indian tribes that receive grants (in place of an eligible LEA) under section 9112(b).

Section 904, applications [ESEA, §9114]. Section 904(1) of the bill would amend section 9114(b)(2)(A) of the ESEA, relating to the consistency of an LEA's comprehensive program to meet the needs of its Indian children with certain other plans, to remove a reference to the Goals 2000: Educate America Act (which would be consolidated into the new Title II of the ESEA) and to require that the LEA's plan be consistent with State and local plans under other provisions of the ESEA, not just plans under Title I.

Section 904(2) would amend section 9114(c) of the ESEA to require that the local assessment of the educational needs of its Indian students be comprehensive. This should help ensure that these assessments provide useful guidance to LEAs and parent committees in planning and carrying out projects.

Section 904(3)(A) would amend ambiguous language in section 9114(c)(4)(B) of the ESEA to clarify that a majority of each participating LEA's parent committee must be parents of Indian children.

Section 904(3)(B) would modify the standard for an LEA's use of funds under this program to support a schoolwide program under Title I of the ESEA, as is permitted by section 9115(c). Under the amendment, the parent committee would have to determine that using program funds in that manner would enhance, rather than simply not diminish, the availability of culturally related activities for American Indian and Alaskan Native students.

Section 905, authorized services and activities [ESEA, §9115]. Section 905(1) of the bill would make a conforming amendment to section 9115(b)(5) of the ESEA to reflect the renaming of the Perkins Act by P.L. 105–332.

Section 905(4) would add four activities to the examples of authorized activities in section 9115(b). These additions would encourage LEAs to address the needs of American Indian and Alaskan Native students in the areas of curriculum development, creating and implementing standards, improving student achievement, and gifted and talented education.

Section 906, student eligibility forms [ESEA, §9116]. Section 906(1) of the bill would make technical amendments to section 9116(f) of the ESEA.

Section 906(2) would amend section 9116(g) to permit tribal schools operating under grants or contracts from the BIA to use either their child counts that are certified by the BIA for purposes of receiving funds from the Bureau or to use a count of children for whom the school has eligibility forms (commonly referred to as ''506 forms'') that meet the requirements of section 9116. This choice would allow these schools to avoid the burden of two separate child counts.

Section 906(3) of the bill would add a new subsection (h) to section 9116 of the ESEA to allow each LEA to select either a particular date or period (up to 31 days) to count the number of children it will claim for purposes of receiving a grant.

Section 907, payments [ESEA, §9117]. Section 907 of the bill would delete obsolete language from section 9117 of the ESEA, relating to payment of grants to LEAs.

Section 908, State educational agency review [ESEA, §9118]. Section 908 of the bill would rewrite section 9118 of the ESEA, relating to the submission of applications to the Secretary and the review of those applications by SEAs, in its entirety. As revised, section 9118 would not contain current subsection (a), which requires LEAs to submit applications to the Secretary, since that duplicates the requirement in section 9114(a) of the ESEA, where it logically belongs. The revised section would also improve the clarity of the requirement that an LEA submit its application to the SEA for its possible review.

Section 909, improvement of educational opportunities for Indian children [ESEA, §9121]. Section 909 of the bill would amend section 9121 of the ESEA, which authorizes support for a variety of projects, selected on a competitive basis, to develop, test, and demonstrate the effectiveness of services and programs to improve educational opportunities for Indian children. In particular, the bill would amend section 9121(d)(2), relating to project applications, to: (1) clarify that certain application requirements do not apply in the case of applicants for dissemination grants under subsection (d)(1)(D); and (2) require applications for planning, pilot, and demonstration projects to include information demonstrating that the program is either a research-based program or that it is a research-based program that has been modified to be culturally appropriate for the students who will be served, as well as a description of how the applicant will incorporate the proposed services into the ongoing school program once the grant period is over.

Section 910, professional development [ESEA, §9122]. Section 910 of the bill would amend section 9122 of the ESEA, which authorizes training of Indian individuals in profession in which they can serve Indian peoples. Section 910(1) of the bill would repeal section; 9122(e)(2) of the Act, which affords a performance to projects that train Indian individuals. This provision, which was carried over from a related program authorized before the 1994 amendments, has no practical effect, since the only projects that have been eligible since 1994 are those that train Indians.

Section 910(2) would amend section 9122(h)(1), which requires individuals who receive training under section 9122 to perform related work that benefits Indian people or repay the assistance they received, so that it would continue to apply to preservice training, but would not apply to in-service training. Individuals receiving in-service training are already serving Indian people, and that training is relatively inexpensive to the taxpayers, is generally of short duration, and frequently does not involve an established per-person cost of participating, such as the substantial tuition and fees that are charged by colleges for preservice degree courses and programs.

Section 910(3) of the bill would add to section 9122 a new authority for grants to consortia to provide in-service training to teachers in LEAs with substantial numbers of Indian children in their schools, so that these teachers can better meet the needs of Indian children in their classrooms. An eligible consortium would consist of a tribal college and an institution of higher education that awards a degree in education, or either or both of those entities along with one or more tribal schools, tribal educational agencies, or LEAs serving Indian children. This new authority will help ensure that classroom teachers are aware of, and responsive to, the unique needs of the Indian children they teach.

Section 911, repeal of authorities [ESEA, §§9123, 9124, 9125, and 9131]. Section 911 of the bill would repeal various sections of Part A of Title IX of the ESEA that have not been recently funded and for which the Administration is not requesting funds for fiscal year 2000. The goals of these provisions (fellowships for Indian students, gifted and talented education, tribal administrative planning and development, and adult education) are more effectively addressed through other programs. Because Subpart 3 of Part A would be repealed, section 911 would also redesignate the remaining subparts.

Section 912, Federal administration [ESEA, §§9152 and 9153]. Section 912 of the bill would make technical amendments to sections 9152 and 9153 of the ESEA, to reflect the proposed repeal of Subpart 3 and the redesignation of the remaining subparts.

Section 913, authorization of appropriations [ESEA, §9162]. Section 913 of the bill would amend section 9162 of the ESEA to authorize appropriations for the Indian education program under Part A of Title IX of the ESEA through fiscal year 2005.

Part B—Native Hawaiian Education Act

Sec. 921, Native Hawaiian Education. Section 901 of the bill would amend Part B of title IX of the ESEA in order to replace a series of categorical programs serving Native Hawaiian children and adults with a single, more flexible authority to accomplish those purposes. In addition to technical and conforming changes, section 901 of the bill would repeal sections 9204 through 9210 of the ESEA. In place of the repealed sections, section 901 of the bill would insert a new section 9204 of the ESEA that would permit all of the types of activities currently carried out under the program to continue. However, it would give the Department more flexibility in operating the program in a manner that meets the educational needs of Native Hawaiian children and adults.

Proposed new section 9204 (''Program Authorized'') of the ESEA would authorize the new Native Hawaiian Education program. Proposed new section 9204(a) would authorize the Secretary to award grants or enter into contracts with, Native Hawaiian educational organizations, Native Hawaiian community-based organizations, public and private nonprofit organizations, agencies, or institutions that have experience in developing Native Hawaiian programs of instruction in the Native Hawaiian language, and consortia of these organizations, agencies, or institutions to carry out Native Hawaiian Education programs.

Permissible Native Hawaiian Education programs under Part B of Title IX of the ESEA would include: (1) the operation of one or more councils to coordinate the provisions of education and related services and programs available to Native Hawaiians; (2) the operation of family-based education centers; (3) activities to enable Native Hawaiians to enter and complete programs of postsecondary education; (4) activities that address the special needs of gifted and talented Native Hawaiian students; (5) activities to meet the special needs of Native Hawaiian students with disabilities; (6) the development of academic and vocational curricula to address the needs of Native Hawaiian children and adults, including curriculum materials in the Hawaiian language and mathematics and science curricula that incorporate Native Hawaiian tradition and culture; (7) the operation of community-based learning centers that address the needs of Native Hawaiian families and communities through the coordination of public and private programs and services; and (8) other activities, consistent with the purposes of this part, to meet the educational needs of Native Hawaiian children and adults.

Proposed new section 9204(b) of the ESEA would authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out Part B of Title IX of the ESEA.

Part C—Alaska Native Education

Sec. 931, Alaska Native Education. Section 902 of the bill would amend Part C of title IX of the ESEA in order to replace a series of categorical programs serving Alaska Natives with a single, more flexible authorization to accomplish those purposes. In addition to technical and conforming changes, section 902 of the bill would repeal sections 9304 through 9306 of the ESEA. In place of the repealed sections, section 902 of the bill would insert a new section 9304 of the ESEA that would permit all of the types of activities currently carried out under the program to continue. However, it would give the Department more flexibility in operating the program in a manner that meets the educational needs of Alaska Native children and adults.

Proposed new section 9304 (''Program Authorized'') of the ESEA would authorize the new Alaska Native Education program. Proposed new section 9304(a) would authorize the Secretary to make grants to, or enter into contracts with, Alaska Native organizations, educational entities with experience in developing or operating Alaska Native programs or programs of instruction conducted in Alaska Native languages, and to consortia of these organizations and entities to carry out programs that meet the purposes of this part.

The activities that would be carried out under this section include: (1) the development and implementation of plans, methods, and strategies to improve the education of Alaska Natives; (2) development of curricula and educational programs to address the educational needs of Alaska Native students; (3) professional development activities for educators; (4) the development and operation of home instruction programs for Alaska Native preschool children; (5) the development and operation of student enrichment programs in science and mathematics; (6) research and data-collection activities to determine the educational status and needs of

Alaska Native children and adults; and (7) other activities, consistent with the purposes of this part, to meet the educational needs of Alaska Native children and adults.

Proposed new section 9304(b) of the ESEA would authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out Part C of Title IX of the ESEA.

TITLE X—PROGRAMS OF NATIONAL SIGNIFICANCE

Section 1001. Fund for the Improvement of Education. Section 1001 of the bill would amend Part A of Title X of the ESEA, which authorizes funds to support nationally significant programs and projects to improve the quality of elementary and secondary education, to assist students to meet challenging State content standards and challenging State performance standards, and to contribute to the achievement of America's Education Goals.

Section 1001(1)(A) of the bill would amend section 10101(a) of the ESEA to emphasize that the Fund for the Improvement of Education (FIE) is a program focused on improving elementary and secondary education.

Section 1001(1)(B) of the bill would amend section 10101(b) of the ESEA to strengthen the program by focusing the authorized use of funds more narrowly. Authorized activities would include: (1) development, evaluation, and other activities designed to improve the quality of elementary and secondary education; (2) the development, implementation, and evaluation of programs designed to foster student community service, encourage responsible citizenship; and improve academic learning; (3) the identification and recognition of exemplary schools and programs, such as Blue Ribbon Schools; (4) activities to study and implement strategies for creating smaller learning communities; (5) programs under section 10102 and section 10103; (6) activities to promote family involvement in education; and (7) other programs that meet the purposes of this section.

Section 1001(1)(C) of the bill would amend section 10101(c) of the ESEA to require an applicant for an award to establish clear goals and objectives for its project and describe the activities it will carry out in order to meet these goals and objectives. It would also require recipients of funds to report to the Secretary such information as may be required, including evidence of its progress towards meeting the goals and objectives of its project, in order to determine the project's effectiveness. This change would emphasize the Department's desire to ensure that the effectiveness of all funded projects can be fully assessed. This language is also aligned with the performance indicators in the FIE plan under GPRA.

This section of the bill would also allow the Secretary to require recipients of awards under this part to provide matching funds from sources other than Federal funds, and to limit competitions to particular types of entities, such as State or local educational agencies.

Section 1001(1)(D) of the bill would amend section 10101(d) of the ESEA to authorize such sums as may be necessary to carry out this part through fiscal year 2005.

Section 1001(1)(E) of the bill would redesignate section 10101(d) of the ESEA as section 10101(e) and add a new requirement that each recipient of a grant under this section to submit a comprehensive evaluation on the effectiveness of its program in achieving its goals and objectives, including the impact of the program on students, teachers, administrators, and parents, to the Secretary, by the mid-point of the program, and no later than one year after completion of the program.

Section 1001(2) of the bill would repeal section 10102 of the ESEA.

Section 1001(3) of the bill would make substantial changes to section 10103 of the ESEA, relating to Character Education. It would provide for more funding flexibility by removing the limit of 10 character education grants per year and maximum award of $1 million to SEAs, and instead authorize the Secretary to make up to 5-year grants to SEAs, LEAs, or consortia of educational agencies for the design and implementation of character education programs. These programs would be required to be linked to the applicant's overall reform efforts, performance standards, and activities to improve school climate. Allowing LEAs and consortia of educational agencies to apply would increase flexibility to fund innovative programs in school districts where the State is not interested in making an application.

Section 1001(3) of the bill would also streamline the application requirements under current law. The application would include: (1) a description of any partnership and other collaborative effort between the applicant and other educational agencies; (2) a description of the program's goals and objectives; (3) a description of activities to be carried out by the applicant; (4) a description of how the programs will be linked to broader educational reforms being instituted by the applicant and applicable State and local standards for student performance; (5) a description of how the applicant will evaluate its progress in meeting its goals and objectives; and (6) such other information as the Secretary may require.

Finally, section 1001(3) of the bill would require the Secretary to make awards that serve different areas of the Nation, including urban, suburban, and rural areas.

Section 1001(4) of the bill would redesignate section 10103 of the ESEA, as amended by section 1001(3), as section 10102, and add a proposed new section 10103 of the ESEA. Specifically, proposed new section 10103 (''State and Local Character Education Program'') of the ESEA would authorize a new program, under which the Secretary could make awards to SEAs, LEAs, institutions of higher education (IHEs), tribal organizations, and other public or private agencies to carry out research, development, dissemination, technical assistance, and evaluation activities that support character education programs under new section 10102 of the ESEA.

Proposed new section 10103(b) of the ESEA would authorize funds under this section to be used to: (1) conduct research and development activities; (2) provide technical assistance to the agencies receiving awards under the program, particularly on matters of program evaluation; (3) conduct a national evaluation of the character education program; and (4) compile and disseminate information on model character education programs, character education materials and curricula, research findings in the area of character education, and any other information that would be useful to character education program participants, and to other educators and administrators, nationwide.

Section 1001(5) of the bill would repeal sections 10104, 10105, 10106, and 10107 of the ESEA.

Section 1002. Gifted and Talented Children. Section 1002 of the bill would reauthorize and make minor improvements to Part B of Title X of the ESEA, which provides financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies to build a nationwide capability in elementary and secondary schools to meet the special educational needs of gifted and talented students.

Section 1002(1) would make a technical change to the program's short title.

Section 1002(2) of the bill would amend section 10204(c) of the ESEA to require the National Center for Research and Development in the Education of Gifted and Talented Children to focus the dissemination of the results of its activities to schools with high percentages of economically disadvantaged students. This modification would help to overcome the Center's current lack of targeting on low-income schools and school districts.

Section 1002(3) of the bill would amend section 10206(b) of the ESEA to require the Secretary to use a peer-review process in reviewing applications under this part, and ensure that the information on the activities and results of programs and projects funded under this part is disseminated to appropriate State and local agencies and other appropriate organizations.

Section 1002(4) of the bill would amend section 10207 of the ESEA to authorize such sums as may be necessary to carry out the Gifted and Talented Children program through fiscal year 2005.

Section 1003. International Education Exchange. Section 1003 of the bill would: (1) move the International Education Exchange program from Title VI of the Goals 2000: Educate America Act (P.L. 103–227) to Part C of Title X of the ESEA; (2) authorize the appropriation of such sums as may be necessary to carry out this program through fiscal year 2005; and (3) add the Republic of Ireland, Northern Ireland, and any other emerging democracy in a developing country to the definition of ''eligible country.''

Section 1004. Arts in Education. Section 1004 of the bill would reauthorize and streamline Part D of Title X of the ESEA, which provides financial assistance to support education reform by strengthening arts education as in integral part of the elementary and secondary school curriculum.

Section 1004(1) of the bill would strike out the heading and designation of Subpart 1 of Part D of Title X of the ESEA.

Section 1004(2)(A) of the bill would amend section 10401(d) of the ESEA by adding a new authorized activity, model arts and cultural programs in the arts for at-risk children and youth, particularly programs that use arts and culture to promote students' academic progress, to the list of authorized activities of the Arts in Education program.

Section 1004(2)(B) of the bill would amend section 10401(f) of the ESEA to authorize the appropriation of such sums as may be necessary to carry out this part through fiscal year 2005.

Section 1004(3) of the bill would repeal Subpart 2 of Part D of Title X of the ESEA. This subpart has never been funded, and the addition of the authorized activity in section 10401(d) of the ESEA, noted above, would provide a more flexible authorization for projects serving at-risk children and youth.

Section 1005. Inexpensive Book Distribution Program. Section 1005 of the bill would reauthorize without change Part E of Title X of the ESEA through fiscal year 2005. This program supports Reading is Fundamental, under which inexpensive books are distributed to students to motivate them to read.

Section 1006. Civic Education. Section 1006 of the bill would reauthorize and streamline Part F of Title X of the ESEA, which authorizes a program to educate students about the history and principles of the Constitution of the United States, including the Bill of Rights, and to foster civic competence and responsibility.

Section 1006 of the bill would repeal the unfunded instruction in Civics, Government, and the Law program under section 10602 of the ESEA, authorize the appropriation of such sums as may be necessary to carry out this part through fiscal year 2005, and make conforming changes.

Section 1007. Allen J. Ellender Program. Section 1007 of the bill would repeal Part G of Title X of the ESEA.

Section 1008. 21st Century Community Learning Centers. Section 1008 of the bill would reauthorize and improve Part I of Title X of the ESEA, which authorizes grants to rural and inner-city public schools to plan, implement, or expand projects that benefit the educational, health, social service, cultural, and recreational needs of a rural or inner-city community.

Section 1008(1) of the bill would amend section 10902 of the ESEA to update the findings.

Section 1008(2)(A) of the bill would amend section 10903(a) of the ESEA by adding language to current law to clarify that the Secretary may award grants to LEAs and community based organizations (CBOs) (with up to 10% of the funds appropriated to carry out this part for any fiscal year) on behalf of public elementary or secondary schools in inner-cities, rural areas, and small cities. In both cases, awards would be limited to schools or CBOs that serve communities with a substantial need for expanded learning opportunities due to: their high proportion of low-achieving students; lack of resources to establish or expand community learning centers; or other needs consistent with the purposes of this part.

Section 1008(2)(B) of the bill would retain the current requirement in section 10903(b) for equitable distribution among the States and urban and rural areas of the United States, but would delete the provision requiring equitable distribution among urban and rural areas of a State.

Section 1008(2)(C) of the bill would amend section 10903(c) of the ESEA to change the duration of grants awarded under this part from 3-years to 5-years.

Section 1008(3)(A) of the bill would amend section 10904 of the ESEA to change the eligible applicant for a grant under this part from a school to an LEA (which would apply on behalf of one or more schools) or a community-based organization. This provision of the bill would also add a new requirement that the applicant provide information that it will provide at least 50 percent of the cost of the project from other sources, which may include other Federal funds and may be provided in cash or in kind, fairly evaluated. The applicant would also be required to provide an assurance that in each year of the project, it will expend, from non-Federal sources, at least as much for the services under this part as it expended for the preceding year and information demonstrating how the applicant will continue the project after completion of the grant.

Paragraph (3)(B) of section 1008 of the bill would amend section 10904(b) of ESEA to require the Secretary to give priority, in all competitions, to applications that offer a broad selection of services that address the needs of the community, and applications that offer significant expanded learning opportunities for children and youth in the community. This provision of the bill would also add a new requirement to section 10904 of the ESEA that an application submitted by a CBO must obtain evidence that affected LEAs concur with the project.

Section 1008(4) of the bill would amend section 10905 of the ESEA to require that applicants provide expanded learning opportunities and eliminate the requirement that applicants include at least four of the activities listed in this section. Instead, applicants must provide educational activities and may provide a range of other services to the community.

Section 1008(5) of the bill would amend section 10906 of the ESEA to clarify the definition of ''community learning center'' as an entity that provides expanded learning opportunities, and may also provide services that address health, social service, cultural, and recreational needs of the community. It would also add a special rule to require a community learning center operated by a local educational agency (but not a CBO) to be located within a public elementary or secondary school building.

Section 1008 (6) of the bill would amend section 10907 of the ESEA to authorize the appropriation of such sums as may be necessary to carry out this part through fiscal year 2005.

Section 1008(7) of the bill would add a proposed new section 10908 (''Continuation Awards'') to the ESEA that would allow the Secretary to use funds appropriated under this part to make continuation awards for projects that were funded with fiscal year 1999 and 2000 funds, under the terms and conditions that applied to the original awards. This provision would have the effect of allowing the Department to provide continuous funding for the last year of 3-year grants made in fiscal year 1998 under the provisions of current law.

Section 1008(8) of the bill would redesignate Part I of Title X of the ESEA as Part G of that title and make conforming changes.

Section 1009. Urban and Rural Education Assistance. Section 1009 of the bill would repeal Part J of Title X of the ESEA.

Section 1010. High School Reform. Section 1010 of the bill would add a new Part H, High School Reform, to Title X of the ESEA.

Proposed new section 10801 (''Purposes'') of the ESEA would state the congressional findings that support this new program. Subsection (b) would provide that the purposes of Part H are to: (1) support the planning and implementation of educational reforms in high schools, particularly in urban and rural high schools that educate concentrations of students from low-income families; (2) support the further development of educational reforms, designed specifically for high schools, that help students meet challenging State standards, and that increase connections between students and adults and provide safe learning environments; (3) create positive incentives for serious change in high schools, by offering rewards to participating schools that achieve significant improvements in student achievement; (4) increase the national knowledge base on effective high school reforms by identifying the most effective approaches and disseminating information on those approaches so that they can be adopted nationally; and (5) support the implementation of reforms in at least 5,000 American high schools by the year 2007.

Proposed new section 10802 (''Grants to Local Education Agencies'') of the ESEA would authorize the Secretary to make competitive grants to LEAs to carry out the program's purposes in their high schools. Subsection (b) would establish a maximum grant period of three years for each grant. Subsection (c) would provide that a particular high school could not be assisted by more than one grant. An LEA could thus serve one or more of its high schools with one grant and one or more different high schools with a subsequent grant.

Proposed new section 10803 (''Applications'') of the ESEA would require an LEA that desires a grant to submit an application and describe the information that must be included.

Proposed new section 10804 (''Selection of Grantees'') of the ESEA would establish the procedures and criteria the Secretary would use in selecting grantees.

Proposed new section 10805 (''Principles and Components of Educational Reforms'') of the ESEA would describe the outcomes that participating high schools are expected to achieve, and would identify the components of the educational reforms that would have to be carried out in those schools in order to attain those outcomes.

Proposed new section 10806 (''Private Schools'') of the ESEA would provide for the equitable participation of personnel from private schools in any professional development carried out with Part H funds. A grantee that uses Part H funds to develop curricular materials would also be required to make information about those materials available to private schools at their request.

Proposed new section 10807 (''Additional Activities'') of the ESEA would direct the Secretary to reserve funds from each year's appropriation for Part H to carry out certain activities relating to the program's purpose, including testing the effect of offering financial rewards to teachers and administrators in high schools if their students demonstrate significant gains in educational outcomes.

Proposed new section 10808 (''Definition'') of the ESEA would define the term ''high school'' as used in part H.

Finally, proposed new section 10809 (''Authorization of Appropriations'') of the ESEA would authorize the appropriation of such sums as may be necessary for fiscal years 2001 through 2005 to carry out Part H.

Section 1011. Elementary School Foreign Language Assistance Program. Section 1011 of the bill would revise and move the ''Foreign Language Assistance Program'', currently in Part B of Title VII of the ESEA, to Title X of the ESEA, as new Part I. Proposed new Part I would seek to expand, improve the quality of, and enhance foreign language programs at the elementary school level by supporting State efforts to encourage and support such programs, local implementation of innovative programs that meet local needs, and identification and dissemination of information on best practices in elementary school foreign language education.

Proposed new section 10901 of the ESEA (''Findings; Purpose'') would set forth the findings and purpose of the part.

Proposed new section 10902 of the ESEA (''Elementary School Foreign Language Assistance Program'') would authorize the Elementary School Foreign Language Assistance Program. Proposed new section 10902(a) of the ESEA would authorized the Secretary, from funds appropriated under subsection (g) for any fiscal year, to make grants to SEAs and to LEAs for the Federal share of the cost of the activities set forth in subsection (b). Each grant under paragraph (1) would be awarded for a period of three years.

Under proposed new section 10902(a)(3), an SEA could receive a grant under the section if it: (1) has established, or is establishing, State standards for foreign language instruction; or (2) requires the public elementary schools of the State to provide foreign language instruction.

Under proposed new section 10902(a)(4), an LEA could receive a grant under the section if the program in its application: (1) shows promise of being continued beyond the grant period; (2) would demonstrate approaches that can be disseminated to, and duplicated by, other LEAs; (3) would include performance measurements and assessment systems that measure students' proficiency in a foreign language; and (4) would use curriculum that is aligned with State standards, if the State has such standards.

Proposed new section 10902(b)(1) would require that grants to SEAs under this section be used to support programs that promote the implementation of high-quality foreign language programs in the elementary schools of the State, which may include: (1) developing foreign language standards and assessments that are aligned with those standards; (2) supporting the efforts to institutions of higher education within the State

to develop programs to prepare the elementary school foreign language teachers needed in schools within the State and to recruit candidates to prepare for, and assume, such teaching positions; (3) developing new certification requirements for elementary school foreign language teachers, including requirements that allow for alternative routes to certification; (4) providing technical assistance to LEAs in the State in developing, implementing, or improving elementary school foreign language programs, including assistance to ensure effective coordination with, and transition for students between, elementary, middle, and secondary schools; (5) disseminating information on promising or effective practices in elementary school foreign language instruction, and supporting educator networks that help improve that instruction; (6) stimulating the development and dissemination of information on instructional programs that use educational technologies and technology applications (including such technologies and applications as multimedia software, web-based resources, digital television, and virtual reality and wireless technologies) to deliver instruction or professional development, or to assess students' foreign language proficiency; and (7) collecting data on and evaluating the elementary school foreign language programs in the State and the activities carried out with the grant.

Proposed new section 10902(b)(2) would require that grants to LEAs under this section be used for activities to develop and implement high-quality, standards-based elementary school foreign language programs, which may include: (1) curriculum development and implementation; (2) professional development for teachers and other staff; (3) partnerships with institutions of higher education to provide for the preparation of the teachers needed to implement programs under this section; (4) efforts to coordinate elementary school foreign language instruction with secondary-level foreign language instruction, and to provide students with a smooth transition from elementary to secondary programs; (5) implementation of instructional approaches that make use of advanced educational technologies; and (6) collection of data on, and evaluation of, the activities carried out under the grant, including assessment, at regular intervals, of participating students' proficiency in the foreign language studied. Proposed new section 10902(b)(3) would allow efforts under the fourth LEA activity described above to include support for the expansion of secondary school instruction, so long as that instruction is part of an articulated elementary-through-secondary school foreign language program that is designed to result in student fluency in a foreign language.

Proposed new section 10902(c)(1) would require any SEA or LEA desiring to receive an grant under this section to submit an application to the Secretary at such time, in such form, and containing such information and assurances, as the Secretary may require. Each application would be required to include a description of: (1) the goals that the applicant will attempt to accomplish through the project; (2) the activities to be carried out through the project; and (3) how the applicant will determine the extent to which the project meets its goals.

Proposed new section 10902(d) would authorize the secretary, in awarding grants under this section, to establish one or more priorities consistent with the purpose of this part, including priorities of projects carried out by LEAs that include immersion programs in which instruction is in the foreign language for a major portion of the day or that promote the sequential study of a foreign language for students, beginning in elementary schools.

Proposed new section 10902(e) would require an SEA or LEA that receives a grant under this section to submit to the Secretary an annual report that provides information on the project's progress in reaching its goals. An LEA that receives a grant under this section would be required to include in its report information on students' gains in comprehending, speaking, reading and writing a foreign language, and compare such educational outcomes to the State's foreign language standards, if such State standards exist.

Proposed new section 10902(f) would require that the Federal share of a program under this section for each fiscal year be not more than 50 percent. The Secretary would be authorized to waive the requirement of cost sharing for any LEA that the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the activities assisted under this section.

Proposed new section 10902(g)(1) would authorize appropriations of such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years for the purpose of carrying out this section. Proposed new section 10902(g)(2) would, for any fiscal year, authorize the Secretary to reserve up to five percent of the amount appropriated to: (1) conduct independent evaluations of the activities assisted under this section; (2) provide technical assistance to recipients of awards under this section; and (3) disseminate findings and methodologies from evaluations required by, or funded under, this section and other information obtained from such programs.

Section 1012. National Writing Project. Section 1012 of the bill would reauthorize and improve Part K of Title X of the ESEA, which authorizes a grant to the National Writing Project for the improvement of the quality of student writing and learning, and the teaching of writing as a learning process.

Section 1012 of the bill would: (1) amend section 10991 of the ESEA to update the findings; (2) amend section 10992 of the ESEA to authorize the Secretary to conduct an independent evaluation of the National Writing Project program; (3) authorize the appropriation of such sums as may be necessary to carry out his program through fiscal year 2005; and (4) make conforming changes.

TITLE XI—GENERAL PROVISIONS, DEFINITIONS, AND ACCOUNTABILITY

Title XI of the bill would amend Title XIV of the ESEA containing general provisions relating to that Act.

Section 1101. Definitions. Section 1101 of the bill would amend various provisions of Part A of Title XIV of the ESEA to: (1) amend the definition of the term ''covered program;'' (2) add a new definition for the term ''family literacy services;'' and (3) make a number of cross-reference changes from provisions and parts in Title XIV of the ESEA to provisions and parts in Title XI of the ESEA to reflect the redesignation of Title XIV as Title XI by section 1109 of the bill. As amended, covered programs would be: Part A of Title I; Part C of Title I; Part A of Title II; Subpart 1 of Part D of Title III; Part A of Title IV (other than section 4115), the Comprehensive School Reform Demonstration Program, and Title VI of the ESEA. The term ''family literacy services'' would mean services provided to eligible participants on a voluntary basis that are of sufficient intensity, both in hours and duration, to make sustainable changes in a family, and that integrate interactive literacy activities between parents and their children, training for parents on how to be the primary teachers for their children and full partners in the education of their children, parent literacy training leading to self-sufficiency, and an age-appropriate education to prepare children for success in school and life experiences.

Section 1102. Administrative Funds. Section 1102 of the bill would amend various provisions of Part B of Title XIV of the ESEA to: (1) revise the list of programs that are subject to the authority to consolidate State administrative funds; (2) expand the list of additional uses for consolidated administrative funds; (3) clarify that local consolidated administrative funds may be used at the school district and school level; and (4) clarify the circumstances under which an LEA may transfer a portion of its funds under one covered program to another covered program.

Paragraph (1)(A) of section 1102 of the bill would revise the list of programs in section 14201(a)(2) of the ESEA whose administrative funds may be consolidated to include programs under Title I, Part A of Title II, Subpart 1 of Part D of Title III, and Part A of Title IV (other than section 4115) of the ESEA, the Comprehensive School Reform Demonstration Program, Title VI of the ESEA (Class Size Reduction), the Carl D. Perkins Vocational and Technical Education Act of 1998, and such other programs as the Secretary may designate.

Paragraph (1)(B) of section 1102 of the bill would amend section 14201(b)(2) of the ESEA to revise the list of additional uses for the consolidated administrative funds to include: (1) State level activities designed to carry out Title XI (the redesignated general provisions title) including Part B (accountability); (2) coordination of included programs with other Federal and non-Federal programs; (3) the establishment and operation of peer-review mechanisms under the ESEA; (4) collaborative activities with other State educational agencies to improve administration under the Act; (5) the dissemination of information regarding model programs and practices; (6) technical assistance under the included programs; (7) training personnel engaged in audit and other monitoring activities; and (8) implementation of the Cooperative Audit Resolution and Oversight Initiative. (Items (1), (4), (7), and (8) provide new authority.)

Paragraph (1)(C) of section 1102 of the bill would eliminate an outdated cross-reference to the Goals 2000: Educate America Act.

In addition to making conforming changes, section 1102(2) of the bill would make a clarifying change to section 14203 of the ESEA (Consolidation of Funds for Local Administration) to make clear that an LEA may use local consolidated funds at the school district and school levels for uses comparable to those described above for consolidated State administrative funds.

Paragraph (3) of section 1102 of the bill would repeal section 14204 of the ESEA (Administrative Funds Studies). Paragraph (4) of section 1102 of the bill would make conforming amendments.

Paragraph (5) of section 1102 of the bill would make conforming amendments, and would also amend section 14206(a) of the ESEA to authorize an LEA that determines for any fiscal year that funds under one covered program (other than Part A of Title I) would be more effective in helping all its students achieve the State's challenging standards if used under another covered program, to use such funds (not to exceed five percent of the LEA's total allotment under that program) to carry out programs or activities under the other covered program. The LEA would be required to obtain the approval of its SEA for this use.

Section 1103. Coordination of Programs. Section 1103 of the bill would amend provisions of Part C of Title XIV of the ESEA relating to consolidated State plans and consolidated local plans and add a new section on consolidated State reporting.

Section 1103(1) of the bill would make an editorial change to the heading for the Part. Section 1103(2) of the bill would substantially revise section 14302 of the ESEA (Optional Consolidated State Plans), which provides authority for an SEA to submit a consolidated State plan instead of separate State plans for the programs covered by that section.

Proposed new section 14302(a)(1) of the ESEA would direct the Secretary to establish procedures and criteria under which a State educational agency may submit a consolidated State plan meeting the requirements of proposed new section 14302. An SEA would be authorized to submit a consolidated State plan for any or all of the covered programs in which the State participates and the additional programs described in proposed new section 14302(a)(2) of the ESEA. These additional programs include: (1) the Even Start program under Part of Title I; (2) the Neglected or Delinquent program under Part D of Title I; (3) programs under Title Part A of Title II of the Carl D. Perkins Vocational and Technical Education Act of 1998; and (4) such other programs as the Secretary may designate.

Proposed new section 14302(a)(3) of the ESEA would provide for the State development and submission of a consolidated State plan. Under proposed new section 14302(a)(3)(A), an SEA desiring to receive a grant under two or more programs to which the section applies would be authorized to submit a consolidated State plan. Under proposed new section 14302(a)(3)(B) of the ESEA, that agency would not be required to submit a separate State plan for the programs included in the consolidated State plan. Proposed new section 14302(a)(3)(C) of the ESEA would provide that the SEA must comply with all legal requirements applicable to the programs included in the consolidated State plan as if it had submitted separate State plans.

Proposed new section 14302(a)(4) would specify that an SEA desiring to receive funds under a program subject to section 14302 of the ESEA for fiscal year 2001 and the succeeding four fiscal years must submit a new consolidated State plan meeting the requirements of that section.

Proposed new section 14302(b) of the ESEA would provide for the content of a consolidated State plan. Proposed section 14302(b)(1) would direct the Secretary to collaborate with SEAs and other named parties in establishing criteria and procedures. Through this collaborative process, the Secretary would establish for each program the descriptions and information that must be included in the plan. Proposed new section 14302(b)(1) of the ESEA would further direct the Secretary to ensure that a consolidated State plan contains, for each program included in the plan, the descriptions and information needed to ensure proper and effective administration of that program in accordance with its purposes. This provision is designed to strengthen the consolidated plan as an instrument of effective administration of each program included.

Proposed new section 14302(b)(2) of the ESEA would require an SEA to describe in its plan how funds under the included programs will be integrated to best serve the needs of the students and teachers intended to benefit and how such funds will be coordinated with other covered programs not included in the plan and related programs.

Proposed new section 14302(c) of the ESEA would require an SEA to include in its consolidated State plan any information required by the Secretary under proposed new section 11912 of the ESEA regarding performance indicators, benchmarks and targets and any other indicators or measures that the State determines are appropriate for evaluating its performance.

Proposed new section 14302(d) would require an SEA to include in its consolidated State plan a description of the strategies it will use under proposed new sections 11503(a)(4) and (5) (relating to State monitoring and data integrity).

Proposed new section 14302(e) of the ESEA would establish procedures for peer review and Secretarial approval. The Secretary would be required to establish a peer review process to assist in the review of consolidated State plans and provide recommendations for revision. To the extent practicable, the Secretary would be directed by proposed new section 14302(e)(1) to appoint individuals who: (1) are knowledgeable about the programs and target populations; (2) are representative of SEAs, LEAs, and teachers and parents of students served under the programs, and (3) have expertise on educational standards, assessment, and accountability.

Proposed new section 14302(e)(2) of the ESEA would direct the Secretary to approve a plan if it meets the requirements of the section and would authorize the Secretary to accompany such approval with one or more conditions. Under proposed new section 14302(e)(3) of the ESEA, if the Secretary determines that the plan does not meet those requirements, the Secretary would be required to notify the State of that determination and the reasons for it. Proposed new section 14302(e)(4) of the ESEA would require the Secretary, before disapproving a plan, to offer the State an opportunity to revise the plan, provide technical assistance, and provide a hearing.

Proposed new section 14302(f) of the ESEA would provide for revision and amendment of a consolidated State plan.

Section 1103(3) of the bill would amend section 14303(a) of the ESEA to provide for uniform State assurances regarding monitoring and data integrity. Paragraph (3)(B) of section 1103 of the bill would insert a new paragraph (4) in section 14303(a) of the ESEA, requiring the State to assure that it will monitor performance by LEAs to ensure compliance with the requirements of the ESEA and, in so doing, will: (1) maintain proper documentation of monitoring activities; (2) provide technical assistance when appropriate and undertake enforcement activities when needed; and (3) systematically analyze the results of audits and other monitoring activities to identify trends in funding and develop strategies to correct problems.

Paragraph (3)(B) of section 1103 of the bill would further amend section 14303(a) of the ESEA by adding a new paragraph (5) requiring the State to assure that the data the State uses to measure its performance (and that of its LEAs) under the ESEA are complete, reliable, an accurate, or, if not, the State will take such steps as are necessary to make those data complete, reliable and accurate.

Section 1103(4) of the bill would repeal section 14304 of the ESEA (Additional Coordination). Section 1103(5) of the bill would amend section 14305 of the ESEA (''Consolidated Local Plans''). Proposed new sections 14305(a) through (d) of the ESEA would clarify and modify current law. Under proposed section 14305(a), and LEA receiving funds under more than one covered program may submit plans to the SEA under such programs on a consolidated basis. Proposed new section 14305(b) of the ESEA would authorize an SEA that has an approved consolidated State plan to require its LEAs that receive funds under more than one program included in the consolidated State plan to submit consolidated local plans for such programs.

Proposed new section 14305(c) of the ESEA would require an SEA to collaborate with LEAs in the State in establishing criteria and procedures for the submission of the consolidated local plans. For each program under the ESEA that may be included in a local consolidated plan, proposed new section 14305(d) of the ESEA would authorize the Secretary to designate the descriptions and information that must be included in a local consolidated plan to ensure that each program is administered in a proper and effective manner in accordance with its purposes.

Section 1103(6) of the bill would make conforming amendments to section 14306 of the ESEA (General Assurances), and section 1103(7) of the bill would repeal section 14307 of the ESEA (Relationship of State and Local Plans to Plans under the Goals 2000: Educate America Act).

Section 1103(8) of the bill would amend Part C of Title XIV of the ESEA by adding a new section 14307 (''Consolidated Reporting'') authorizing the Secretary to establish procedures and criteria under which an SEA must submit a consolidated State annual performance report. Proposed new section 14307 of the ESEA would require that the report include information about programs included in the report, including the State's performance under those programs, and other matters, as the Secretary determines. Submission of a consolidated performance report would take the place of individual performance reports for the programs subject to its.

Section 1104. Waivers. Section 1104 of the bill would amend section 14401 of the ESEA (Waivers).

Section 1104(1) of the bill would amend section 14401(a) of the ESEA to add the Carl D. Perkins Vocational and Technical Education Act of 1998 and Subtitle B of Title VII of the Stewart B. McKinney Homeless Assistance Act as programs to which section 14401 applies. Section 1104(2) of the bill would amend section 14401(b)(1) of the ESEA to require that an SEA, LEA, or Indian tribe that desires a waiver submit an application to the Secretary containing such information as the Secretary may reasonably require. Each such application would be required to: (1) indicate each Federal program affected and the statutory or regulatory requirements requested to be waived; (2) describe the purpose and expected results of the waiver; (3) describe, for each school year, specific, measurable goals for the SEA and for each LEA, Indian tribe, or school that would be affected; and (4) explain why the waiver would assist in reaching these goals. Section 1104(3) of the bill would make conforming amendments to section 14401(c) of the ESEA, relating to restrictions on the waiver authority, and would add health and safety to the list of requirements that may not be waived. Section 1104(4) of the bill would make conforming changes to section 14401(e)(4) of the ESEA, relating to reports to Congress.

Section 1105. Uniform provisions. Section 1105 of the bill would amend various provisions of Part E of Title XIV of the ESEA relating to uniform provisions concerning maintenance of effort and participation by private school children and teachers.

Section 1105(1) of the bill would amend section 14501(a) of the ESEA, relating to maintenance of effort, to make that section inapplicable to Part C of Title I of that Act.

Section 1105(2) of the bill would also amend section 14503(a)(1) of the ESEA, relating to the provision of equitable services to students in private schools, by adding language to clarify that those services should address the needs of those students.

Section 1105(2) of the bill would amend section 14503(b) to make it apply to programs under: Part C of Title I; Part E of Title I; Subpart 2 of Part A of Title II; Title III, Part A of Title IV–A (other than section 4115), and Part A of Title VII of the ESEA.

Section 1105(2) of the bill would also amend section 14503(c)(1) of the ESEA, with respect to the issues to be covered by consultation between designated public educational agencies and appropriate private school officials. Section 1105(2) of the bill would add two issues to be covered by such consultation: (1) to the extent applicable, the amount of funds received by the agency that are attributable to private school children; and (2) how and when the agency will make decisions about the delivery of services to these children.

Section 1105(2) of the bill would also amend section 14503(c)(2) of the ESEA to clarify the timing of such consultation. Under proposed new section 14503(c)(2) of the ESEA, such consultation would be required to include meetings of agency and private school officials, to occur before the LEA makes any decision that affects the opportunities of eligible private school children or their teachers to participate in programs under the ESEA, and to continue throughout the implementation and assessment of activities under section 14503 of the ESEA.

Paragraphs (3) and (4) of section 1105 of the bill would amend sections 14504 and 14506 of the ESEA to make conforming amendments to cross-references. Paragraph (5) of section 1105 of the bill would repeal sections 14513 and 14514 of the ESEA.

Section 1106. Gun Possession. Section 1106 of the bill would repeal Part F of Title XIV of the ESEA, the ''Gun-Free Schools Act''. These provisions, in modified form, would be included in proposed new title IV of the ESEA.

Section 1107. Evaluation and Indicators. Section 1107 of the bill would amend Part G of Title XIV to revise section 14701 of the ESEA (Evaluation) and to add a new section 14702 of the ESEA (''Performance Measures''), authorizing the Secretary to establish performance indicators for each program under the ESEA and Title VII–B of the Stewart B. McKinney Homeless Assistance Act.

Section 1107(1) of the bill would amend the heading of Part G to read: ''EVALUATION AND INDICATORS.'' Section 1107(s) of the bill would add to section 14701(a)(1) of the ESEA new subparagraphs that would authorize the Secretary, with the funds reserved under the section, to: (1) conduct evaluations to carry out the purposes of the Government and Performance Results Act of 1993, and (2) work in partnership with the States to develop information relating to program performance that can be used to help achieve continuous improvement at the State, school district, and school level. Proposed new section 14701(b) of the ESEA would direct the Secretary to use reserved funds to conduct independent studies of programs under the ESEA and the effectiveness of those programs in achieving their purposes, to determine whether the programs are achieving the standards set forth in the subsection. Proposed new section 14701(c) of the ESEA would direct the Secretary to establish an independent panel to review these studies, to advise the Secretary on their progress, and to comment, if it so chooses, on the final report under proposed new section 14701(d).

Proposed new section 14701(d) would direct the Secretary to submit an interim report on the evaluations within three years of enactment of the Educational Excellence for All Children Act of 1999 and a final report with four years to the Committee on Education and the Workforce of the House of Representatives and to the Committee on Health, Education, Labor and Pensions of the Senate. Proposed new section 14701(e) of the ESEA would authorize the Secretary to provide technical assistance to recipients under the ESEA to strengthen the collection and assessment of information relating to program performance and quality assurance at State and local levels. This proposed new subsection would require that the technical assistance be designed to promote the development, use and reporting of data on valid, reliable, timely, and consistent performance indicators, within and across programs, with the goal of helping recipients make continuous program improvement.

Section 1107(3) would add proposed new section 14702 (''Performance Measures'') to the ESEA. Proposed new section 14702(a) of the ESEA would authorize the Secretary to establish performance indicators, benchmarks, and targets for each program under the Act and Subtitle B of Title VII–B of the McKinney Homeless Assistance Act, to assist in measuring program performance. It would further require that the indicators, benchmarks, and targets be consistent with the Government Performance and Results Act of 1993, strategic plans adopted by the Secretary under that Act, and section 11501 of the ESEA.

Proposed new section 14702(b) of the ESEA would direct the Secretary to collaborate with SEAs, LEAs and other recipients under the ESEA in establishing performance indicators, benchmarks, and targets. Proposed new section 14702(c) of the ESEA would authorize the Secretary to require an applicant for funds under the ESEA or the McKinney Act to (1) include in its plan or application information relating to how it will use the indicators, benchmarks and targets to improve its program performance and (2) report data relating to such performance indicators, benchmarks and targets to the Secretary.

Section 1108. Coordinated Services. Section 1108 of the bill would transfer Title XI of the ESEA, relating to coordinated services, to Part I of Title XI and would make conforming and other amendments to Title XI of current law.

Section 1108(b)(1) of the bill would revise section 11903 of the new Part I, as redesignated, (current section 11004 of the ESEA, relating to project development and implementation). Proposed new section 11903(a) would require each eligible entity desiring to use funds under section 11405(b) of the ESEA (for coordinated services) to submit an application to the appropriate SEA. Proposed new section 11903(b) of the ESEA would require an eligible entity that wishes to conduct a coordinated services project to maintain on file: (1) the results of its assessment of economic, social, and health barriers to educational achievement experienced by children and families in the community and of the services available to meet those needs; (2) a description of the entities operating coordinated services projects; (3) a description of its coordinated services project and other information related to the project; and (4) an annual budget that indicates the sources and amounts of funds under the Act that will be used for the project, consistent with section 11405(b) and the purposes for which the funds will be used.

Proposed new section 11903(b) of the ESEA would also require such an eligible entity to evaluate annually the success of the project; train teachers and appropriate personnel; and ensure that the coordinated services project addresses the health and welfare needs of migratory families. Proposed new section 11903(c) of the ESEA would provide that an SEA need not require eligible entities to submit an application under subsection (a) in order to permit them to carry out coordinated services projects under section 11903 of the ESEA.

Section 1108(b)(2) of the bill would make conforming amendments to section 11904 of the ESEA, as redesignated. Section 1108(b)(3) of the bill would amend section 11905 of the ESEA, as redesignated (current section 11004 of the ESEA), to make clear that the authority under that section is placed in the SEA, rather than the Secretary, and to make other conforming changes.

Section 1109. Redesignations. Section 1109 of the bill would redesignate Title XIV of the ESEA as Title XI of the ESEA and would make conforming amendments to its parts and sections.

Sec. 1110. (ED-Flex Partnerships). Section 1110 of the bill would make minor revisions to the recently enacted Education Flexibility Partnership Act of 1999 (P.L. 106–25) and redesignate it as Part G of Title XI of the revised ESEA.

Paragraphs (1), (2), (3), and (4) of section 1110(a) would make minor changes to the short title, findings, and definitions of the Education Flexibility Partnership Act of 1999 to reflect its incorporation into the ESEA.

Paragraph (5) of section 1110(a) would, in addition to making minor editorial revisions, make State eligibility for ED-Flex status turn, in part, on whether the State has an approved accountability plan under proposed new section 11208 of the ESEA and is making satisfactory progress, as determined by the Secretary, in implementing its policies under proposed new sections 11204 (Student Progress and Promotion Policy) and 11205 (Ensuring Teacher Quality) of the ESEA. (A State would also have to be in compliance with various Title I accountability requirements and waive State statutory and regulatory requirements.) Paragraph (5) of section 1110(a) of the bill would also revise the conditions under which the Secretary may grant an extension of ED-Flex authority, beyond five years, to provide, in part, that the Secretary may grant such an extension only if he or she determines that the State has made significant statewide gains in student achievement and is closing the achievement gap between low- and high-performing students.

In addition, paragraph (5) of section 1110(a) of the bill would revise the list of Federal education programs that are subject to ED-Flex authority to reflect the amendments that would be made to the ESEA by the bill and to include Subtitle B of Title VII of the Stewart B. McKinney Homeless Assistance Act. Paragraph (5) would also clarify that, while States may grant waivers with respect to the minimum percentage of children from low-income families needed to permit a schoolwide program under section 1114 of the ESEA, in doing so they may not go below 40 percent. Finally, paragraph (5) would add a transition provision that makes clear that waivers granted under applicable ED-Flex authority prior to the effective date of proposed new Part G of Title XI of the ESEA would remain in effect in accordance with the terms and conditions that applied when those waivers were granted, and that waivers granted on or after the effective date of Part G would be subject to the provisions of Part G.

Paragaphs (6) and (7) of section 1110(a) of the bill would make editorial revisions and repeal, as no longer needed, certain amendatory provisions to other Acts (but without un-doing the substantive changes to those other Acts made by those amendatory provisions). Finally, section 1110(b) of the bill would make appropriate redesignations and add a part heading.

Section 1111. Accountability. Section 1111 of the bill would amend Title XI of the Act by adding a new Part B, Improving Education Through Accountability.

Proposed new section 11201 (''Short Title'') of the ESEA would establish the short title of this part as the ''Education Accountability Act of 1999.''

Proposed new section 11202 (''Purpose'') of the ESEA would set out the statement of

purpose for the new part. Under proposed new section 11202, the purpose of the part would be to improve academic achievement for all children, assist in meeting America's Education Goals under section 2 of the ESEA, promote the incorporation of challenging State academic content and student performance standards into classroom practice, enhance accountability of State and local officials for student progress, and improve the effectiveness of programs under the ESEA and the educational opportunities of the students that they serve.

Proposed new section 11203 (''Turning Around Failing Schools'') of the ESEA would require a State that receives assistance under the ESEA to develop and implement a statewide system for holding its LEAs and schools accountable for student performance, including a procedure for identifying LEAs and schools in need of improvement; intervening in those agencies and schools to improve teaching and learning; and implementing corrective actions, if those interventions are not effective.

Proposed new section 11204 (''Student Progress and Promotion Policy'') of the ESEA would require any State that receives assistance under the ESEA to have in effect, at the time its submits its accountability plan, a State policy that is designed to ensure that students progress through school on a timely basis, having mastered the challenging material needed for them to reach high standards of performance and is designed to end the practices of social promotion and retention. Proposed new subsection (a)(2) would also define the terms ''social promotion'' and ''retention.''

Proposed new section 11204(b) would outline specific requirements for the State's policy under subsection (a). Under proposed new section 11204(b), a State policy must: (1) require its LEAs to implement continuing, intensive and comprehensive educational interventions as may be necessary to ensure that all students can meet the challenging academic performance standards required under section 1111(b)(A) of the ESEA, and require all students to meet those challenging standards before being promoted at three key transition points (one of which must be graduation from secondary school), as determined by the State, consistent with section 1111(b)(2)(D); (2) require the SEA to determine, through the collection of appropriate data, whether LEAs and schools are ending the practices of social promotion and retention; (3) require its LEAs to provide to all students educational opportunities in classrooms with qualified teachers who use proven instructional practices that are aligned to the State's challenging standards and who are supported by high-quality professional development; and (4) require its LEAs to use effective, research-based prevention and early prevention strategies to identify and support students who need additional help to meet those promotion standards.

Proposed new subsection (b) would also require the State policy to provide, with respect to students who have not demonstrated mastery of challenging State academic standards on a timely basis, for continuing, intensive, and age-appropriate interventions, including, but not limited to, extended instruction and learning time, such as afterschool and summer programs that are designed to help students master such material; for other specific interventions, with appropriate instructional strategies, to enable students with limited English proficiency and students with disabilities to master such material; for the identification of the knowledge and skills in particular subject areas that students have not mastered, in order to facilitate remediation in those areas; for the development, by schools, of plans to provide individualized attention to students who have not mastered such material; for full communication between the school and parents, including a description and analysis of the students' performance, how it will be improved, and how parents will be involved in the process; and, in cases in which significant numbers of students have failed to master such material, for a State review of whether corrective action with respect to the school or LEA is needed.

Finally, proposed new subsection (b) of section 11204 of the ESEA would require the State policy to require its LEAs to disseminate widely their policies under this subsection in language and in a format that is concise and that parents can understand and ensure that any assessments used by a State, LEA, or school for the purpose of implementing a policy under this subsection are aligned with the State's challenging academic content and student performance standards and provide coherent information about student progress towards attainment of such standards; include multiple measures, including teacher evaluations, no one of which may be assigned determinative weight in making adverse decisions about individual students; offer multiple opportunities for students to demonstrate that they meet the standards; are valid and reliable for the purposes for which they are used, and fairly and accurately measure what students have been taught; provide reasonable adaptations and accommodations for students with disabilities and students with limited English proficiency; provide that students with limited English proficiency are assessed, to the greatest extent practicable, in the language and form most likely to yield accurate and reliable information about what those students know and can do; and provide that Spanish-speaking students with limited English proficiency are assessed using tests written in Spanish, if Spanish-language assessments are more likely than English-language tests to yield accurate and reliable information on what those students know and can do.

Proposed new section 11204(c) of the ESEA would establish what a State must include in its accountability plan under proposed new section 11208 of the ESEA with respect to its promotion policy. A State would be required to include in its accountability plan a detailed description of its policy under proposed new subsection (b). Additionally, a State would be required to include in its plan the strategies and steps (including timelines and performance indicators) it will take to ensure that its policy is fully implemented no later than four years from the date of the approval of its plan. Finally, a State would also be required to address in its plan the steps that it will take to ensure that the policy will be disseminated to all LEAs and schools in the State and to the general public.

Proposed new section 11205 (''Ensuring Teacher Quality'') of the ESEA would establish provisions to ensure teacher quality. Specifically, proposed new section 11205(a) would provide that a State that receives funds under the ESEA must have in effect, at the time it submits its accountability plan, a policy designated to ensure that there are qualified teachers in every classroom in the State, and that meets the requirements of proposed new sections 11205(b) and (c).

Proposed new section 11205(b) of the ESEA would establish requirements for the contents of the State's policy on teacher quality. Under proposed new section 11205(b), a policy to ensure teacher quality must include the strategies that the State will carry out to ensure that, within four years from the date of approval of its accountability plan, certain goals are met. Proposed new section 11205(b)(1) would require that a State include strategies to ensure that not less than 95% of the teachers in public schools in the State are either certified, have a baccalaureate degree and are enrolled in a program, such as an alternative certification program, leading to full certification in their field within three years, or have full certification in another State and are establishing certification where they are teaching. Proposed new section 11205(b)(2) would require the State to include strategies to ensure that not less than 95% of the teachers in public secondary schools in the State have academic training or demonstrated competence in the subject area in which they teach. A State would also have to include strategies to ensure that there is no disproportionate concentration in particular school districts of teachers who are not described in paragraphs (1) and (2) of proposed new section 11205(b). Additionally, a State would be required to include in its teacher quality policy strategies to ensure that its certification process for new teachers includes an assessment of content knowledge and teaching skills aligned with State standards.

Proposed new section 11205(c) of the ESEA would require a State to include in its accountability plan the performance indicators by which it would annually measure progress in two areas. Under proposed new section 11205(c)(1)(A), a State would be required to include the benchmarks by which it will measure its progress in decreasing the percentage of teachers in the State teaching without full licenses or credentials. Proposed new section 11205(c)(1)(B) would require a State to include the benchmarks by which it will measure its progress in increasing the percentage of secondary school classes in core academic subject areas taught by teachers who either have a postsecondary-level academic major or minor in the subject area they teach or a related field, or otherwise demonstrate a high level of competence through rigorous tests in their academic subject.

Finally, proposed new section 11205(c)(2) of the ESEA would require a State to assure in its accountability plan that in carrying out its teacher quality policy, it would not decrease the rigor or quality of its teacher certification standards.

Subsection (a) of proposed new section 11206 (''Sound Discipline Policy'') of the ESEA would require a State that receives assistance under the ESEA; to have in effect, at the time it submits its accountability plan, a policy that would require its LEAs and schools to have in place and implement sound and equitable discipline policies, to ensure a safe, and orderly, and drug-free learning environment in every school. A State would also be required under section 11206(c) to include in its accountability plan an assurance that it has in effect a policy that meets the requirements of this section.

Under proposed new section 11206(b) of the ESEA, the required disciplinary policy would require LEAs and schools to implement disciplinary policies that focus on prevention and are coordinated with prevention strategies and programs under Title IV of the ESEA. Additionally, LEA and school policies would have to: apply to all students; be enforced consistently and equitably; be clear and understandable; be developed with the participation of school staff, students, and parents; be broadly disseminated; ensure that due process is provided; be consistent with applicable Federal, State and local laws; ensure that teachers are adequately trained to manage their classrooms effectively; and, in case of students suspended or expelled from school, provide for appropriate supervision, counseling, and educational

services that will help those students continue to meet the State's challenging standards.

Subsection (a) of proposed new section 11207 (''Education Report Cards'') of the ESEA would require a State that receives assistance under the ESEA, to have in effect, at the time it submits its accountability plan, a policy that requires the development and dissemination of annual report cards regarding the status of education and educational progress in the State and in its LEAs and schools. Under proposed new section 11207(a), report cards would have to be concise and disseminated in a format and manner that parents could understand, and focus on educational results.

Proposed new section 11207(b) of the ESEA would establish the information that, at a minimum, the State must include in its annual State-level report card. Under proposed new section 11207(b)(1), a State would be required to include information regarding student performance on statewide assessments, set forth on an aggregated basis, in both reading (or language arts) and mathematics, as well as any other subject area for which the State requires assessments. A State would also be required under proposed new section 11207(b)(1) to include in its report card information regarding attendance and graduation rates in the State's public schools, as well as the average class size in each of the State's school districts. A State would also be required to include information with respect to school safety, including the incidence of school violence and drug and alcohol abuse and the number of instances in which a student has possessed a firearm at school, subject to the Gun-Free Schools Act. Finally, a State would be required under proposed new section 11207(b)(1) to include in its report card information regarding the professional qualifications of teachers in the State, including the number of teachers teaching with emergency credentials and the number of teachers teaching outside their field of expertise.

Proposed new section 11207(b)(2) of the ESEA would require that student achievement data in the State's report card contain statistically sound, disaggregated results with respect to the following categories: gender; racial and ethnic group; migrant status; students with disabilities, as compared to students who are not disabled; economically disadvantaged students, as compared to students who are not economically disadvantaged; and students with limited English proficiency, as compared to students who are proficient in English. Under proposed new section 11207(b)(2), a State could also include in its report card any other information it determines appropriate to reflect school quality and student achievement. This could include information on: longitudinal achievement scores from the National Assessment of Educational Progress or State assessments; parent involvement, as determined by such measures as the extent of parental participation in school parental involvement activities; participation in extended learning time programs, such as after-school and summer programs; and the performance of students in meeting physical education goals.

Under proposed new section 11207(c) of the ESEA, a State would be required to ensure that each LEA and each school in the State includes in its annual report, at a minimum, the information required by proposed new sections 11207(b) (1) and (2). Additionally, a State would be required under proposed new section 11207(c) to ensure that LEAs include in their annual report cards the number of their low-performing schools, such as schools identified as in need of improvement under section 1116(c)(1) of the ESEA, and information that shows how students in their schools performed on statewide assessments compared to students in the rest of the State (including such comparisons over time, if the information is available), and schools include in their annual report cards whether they have been identified as a low-performing school and information that shows how their students performed on statewide assessments compared to students in the rest of the LEA and the State (including such comparisons over time, if the information is available). LEAs and schools could also include in their annual report cards the information described in proposed new section 11207(b)(3) and other appropriate information.

Proposed new section 11207(d) of the ESEA would establish requirements for the dissemination and accessibility of report cards. Under proposed new section 11207(d), State-level report cards would be required to be posted on the Internet, disseminated to all schools and LEAs in the State, and made broadly available to the public. LEA report cards would have to be disseminated to all their schools and to all parents of students attending these schools, and made broadly available to the public. School report cards would have to be disseminated to all parents of students attending that school and made broadly available to the public.

Under proposed new section 11207(e) of the ESEA, a State would be required to include in its accountability plan an assurance that it has in effect an education report card policy that meets the requirements of proposed new section 11207.

Proposed new section 11208 (''Education Accountability Plans'') of the ESEA would establish the requirements for a State's education accountability plan. In general, each State that received assistance under ESEA, on or after July 1, 2000, would be required to have on file with the Secretary, an approved accountability plan that meets the requirements of this section.

Proposed new section 11208(b) would establish the specific contents of a State accountability plan. A State would be required to include a description of the State's system under proposed new section 11203; a description of the steps the State will take to ensure that all LEAs have the capacity needed to ensure compliance with this part; the assurances required by proposed new sections 11204(c), 11205(c), 11206(6), and 11207(e); information indicating that the Governor and the SEA concur with the plan; and any other information that the Secretary may reasonably require to ensure the proper and effective administration of this part.

Proposed new section 11208(c) of the ESEA would require a State to report annually to the Secretary, in such form and containing such information as the Secretary may require, on its progress in carrying out the requirements of this Part, and would be required to include this report in the consolidated State performance report required under proposed new section 11506 of the ESEA. Additionally, in reporting on its progress in implementing its student progress and social promotion policy under proposed new section 11204 of the ESEA, a State would be required to assess the effect of its policy, and its implementation, on improving academic achievement for all children, and otherwise carrying out the purpose specified in proposed new section 11202 of the ESEA.

Proposed new section 11208(d) of the ESEA would require a State that submits a consolidated State plan under section 11502 to include in that plan its accountability plan under this section. If a State does not submit a consolidated State plan, a State must submit a separate accountability plan.

Under proposed new section 11208(e) of the ESEA, the Secretary would approve an accountability plan under this section if the Secretary determined that it substantially complied with the requirements of this part. Additionally, the Secretary would have the authority to accompany the approval of a plan with conditions consistent with the purpose of this part. In reviewing accountability plans under this part, proposed new section 110208(e) of the ESEA would require that the Secretary use the peer review procedures under section 11502(e) of the ESEA. Finally, under proposed new section 11208(e) of the ESEA, if a State does not submit a consolidated State plan under section 11502 of the ESEA, the Secretary would, in considering that State's separate accountability plan under this section, use procedures comparable to those in section 11502(e).

Proposed new section 11209 (''Authority of Secretary to Ensure Accountability'') of the ESEA would establish the Secretary's authority to ensure accountability. If the Secretary determines that a State has failed substantially to carry out a requirement of this part or its approved accountability plan, or that its performance has failed substantially to meet a performance indicator in its accountability plan, proposed new section 11209(a) of the ESEA would authorize the Secretary to take one or more of the following steps to ensure prompt compliance: (1) providing, or arranging for, technical assistance to the State educational agency; (2) requiring a corrective action plan; (3) suspending or terminating authority to grant waivers under applicable ED-Flex authority; (4) suspending or terminating eligibility to participate in competitive programs under the ESEA; (5) withholding, in whole or in part, State administrative funds under the ESEA; (6) withholding, in whole or in part, program funds under the ESEA; (7) imposing one or more conditions upon the Secretary's approval of a State plan or application under the ESEA; (8) taking other actions under Part D of the General Education Priorities Act; and (9) taking other appropriate steps, including referral to the Department of Justice for enforcement.

Proposed new section 11209(b) of the ESEA would require the Secretary to take one or more additional steps under proposed new section 11209(a) of the ESEA to bring the State into compliance if he determines that previous steps under that provision have failed to correct the State's non-compliance.

Proposed new section 11210 (''Recognition and Rewards'') of the ESEA would require the Secretary to recognize and reward States that the Secretary determines have demonstrated significant, statewide achievement gains in core subjects, as measured by the National Assessment of Educational Progress for three consecutive years, are closing the achievement gap between low- and high-performing students, and have in place strategies for continuous improvement in reducing the practices of social promotion and retention. Such recognition and rewards would take into account all the circumstances, including the size of the State's gains in statewide achievement.

Proposed new section 11210(b) of the ESEA would require the Secretary to establish, through regulation, a system for recognizing and rewarding States described under proposed new section 11210(a) of the ESEA. Rewards could include conferring a priority in competitive programs under the ESEA, increased flexibility in administering programs under the ESEA (consistent with maintaining accountability), and supplementary grants or administrative funds to carry out the purposes of the ESEA. Proposed new section 11210(c) of the ESEA would authorize, for fiscal year 2001 and each of the

four succeeding fiscal years, the appropriation of whatever sums are necessary to provide such supplementary funds.

Proposed new section 11211 (''Best Practices Model'') of the ESEA would require the Secretary, in implementing this part, to disseminate information regarding best practices, models, and other forms of technical assistance, after consulting with State and LEAs and other agencies, institutions, and organizations with experience or information relevant to the purposes of this part.

Finally, proposed new section 11212 (''Construction'') of the ESEA would provide that nothing in this Part may be construed as affecting home schooling, or the application of the civil rights laws or the Individuals with Disabilities.

Section 1112. America's Education Goals Panel. Section 1112 of the bill would move the authority for the National Education Goals Panel from Title II of the Goals 2000: Educate America Act to a new Part C of Title XI of the ESEA, and rename the panel the ''America's Education Goals Panel.'' This conforms to the renaming of the National Education Goals as ''America's Education Goals'' and their placement in proposed new section 2 of the ESEA, as added by section 2(b) of the bill.

The statutory authority for the Goals Panel would be largely unchanged from current law, apart from some minor stylistic changes, updates, clarifications, and the elimination of current provisions relating to voluntary National content standards, voluntary National student performance standards and the work of the Panel's Resource and Technical Planning Groups on School Readiness.

The current authority for the National Education Goals Panel, Title II of the Goals 2000: Educate America Act, would be repealed by section 1201 of the bill.

Section 1113. Repeal. Section 1112 of the bill would repeal Title XII of the ESEA.

TITLE XII—AMENDMENTS TO OTHER LAWS; REPEALS

Part A—Amendments to other laws

Section 1201. Amendments to the Stewart B. McKinney Homeless Assistance Act. Section 1201 of the bill would set forth amendments to the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421 *et seq.*; hereinafter referred to in this section as the ''Act''). Among other things, these amendments would improve the McKinney program by: (1) helping ensure that students are not segregated based on their status as homeless; (2) enhancing coordination at the State and local levels; (3) facilitating parental involvement; (4) clarifying that subgrants to LEAs are to be awarded competitively on the basis of the quality of the program and the need for the assistance; and (5) enhancing data collection and dissemination at the national level. The program would also be reauthorized for five years.

Section 1201(a) of the bill would amend section 721(3) of the Act (Statement of Policy), by changing the current statement to make it clear that homelessness alone is not sufficient reason to separate students from the mainstream school environment. This language, which is reflected in amendments that follow make a strong statement against segregating homeless children on the basis of their homelessness. This responds to some local actions being taken around the country to create separate, generally inferior, schools for homeless children. Homeless advocacy groups and State coordinators have strongly encouraged this action.

Section 1201(b) of the bill would amend section 722 of the Act (Grants for State and Local Activities for the Education of Homeless Children and Youth). Section 1201(b)(1) of the bill would amend sections 722(c)(2) and (3) of the Act, reserving funds for the territories and defining the term ''State,'' to remove Palau from those provisions. Palau does not participate in the program since its Compact of Free Association was ratified. Section 1201(b)(2) of the bill would amend section 722(e) of the Act (State and Local Grants), to add a new paragraph (3) that would prohibit a State receiving funds under this subtitle from segregating a homeless child or youth, either in a separate school or in a separate program within a school, based on that child or youth's status as homeless, except as is necessary for short periods of time because of health and safety emergencies or to provide temporary, special supplementary services to meet the unique needs of homeless children and youth.

Section 1201(b)(3) of the bill would amend section 722(f) of the Act (Functions of the State Coordinator). Section 1201(b)(3)(A) of the bill would amend section 722(f)(1) of the Act to eliminate the requirement that the coordinator estimate the number of homeless children and youth in the State and the number of homeless children and youth served by the program. Section 1201(b)(3)(B) of the bill would amend section 722(f)(4) of the Act to eliminate the requirement that the Coordinator report on certain specific information and replace it with a more general requirement that the Coordinator collect and transmit to the Secretary such information as the Secretary deems necessary to assess the educational needs of homeless children and youth within the State. Section 1201(b)(3)(C) of the bill would amend section 722(f)(6) of the Act to make editorial changes and require the Coordinator to collaborate, as well as to coordinate, with certain currently listed entities, as well as with LEA liaisons and community organizations and groups representing homeless children and youth and their families.

Section 1201(b)(4) of the bill would amend section 722(g) of the Act (State Plan). Paragraph (4)(A) of the bill would amend section 722(g)(1)(H) of the Act to require States to provide assurances in their plans that SEAs and LEAs adopt policies and practices to ensure that homeless children and youth are not segregated or stigmatized and that LEAs in which homeless children and youth reside or attend school will: (1) post public notice of the educational rights of such children and youth in places where such children and youth receive services under this Act; and (2) designate an appropriate staff person, who may also be a coordinator for other Federal programs, as a liaison for homeless children and youth. Section 1201(b)(4)(B) of the bill would amend section 722(g)(3)(B) of the Act to require LEAs, in determining the best interest of the homeless child or youth, to the extent feasible, to keep a homeless child or youth in his or her school of origin, except when doing so is contrary to the wishes of his or her parent or guardian, and to provide a written explanation to the homeless child's or youth's parent or guardian when the child or youth is sent to a school other than the school of origin or a school requested by the parent or guardian.

Section 1201(b)(4)(C) of the bill would amend section 722(g)(6) of the Act to consolidate the coordination requirements currently in paragraphs (6) and (9) and require that the mandated coordination be designed to: (1) ensure that homeless children and youth have access to available education and related support services, and (2) raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homeless children and youth. Section 1201(b)(4)(D) of the bill would amend section 722(g)(7) of the Act to require each LEA liaison, designated pursuant to section 722(g)(1)(H)(ii)(II) of the Act, to ensure that: (1) homeless children and youth enroll, and have a full and equal opportunity to succeed, in schools of that agency; (2) homeless families, children, and youth receive educational services for which such families, children, and youth are eligible; and (3) the parents or guardians of homeless children and youth are informed of the education and related opportunities available to their children and are provided with meaningful opportunities to participate in the education of their children. Section 722(g)(7) of the Act would be further amended by adding a new subparagraph (C) requiring LEA liaisons, as a part of their duties, to coordinate and collaborate with State coordinators and community and school personnel responsible for the provision of education and related services to homeless children and youth. Section 1201(b)(4)(E) of the bill would eliminate section 722(g)(9) of the Act, which would be combined with section 722(g)(6) of the Act.

Section 1201(c) of the bill would amend section 723 of the Act (Local Educational Agency Grants for the Education of Homeless Children and Youth). Section 1201(c)(1) of the bill would amend section 723(a) of the Act to: (1) make certain editorial changes; (2) clarify that where services under the section are provided on school grounds, schools may use funds under this Act to provide the same services to other children and youth who are determined by the LEA to be at risk of failing in, or dropping out of, schools; and (3) prohibit schools from providing services, including those to at-risk children and youth, in settings within a school that segregate homeless children and youth from other children and youth, except as is necessary for short periods of time because of health and safety emergencies or to provide temporary, special supplementary services to meet the unique needs of homeless children and youth.

Section 1201(c)(2) of the bill would amend section 723(b) of the Act to require local applications for State subgrants to contain an assessment of the educational and related needs of homeless children and youth in their district (which may be undertaken as a part of needs assessments for other disadvantaged groups). Section 1201(c)(3) of the bill would amend section 723(c)(1) of the Act to clarify that State subgrants are to be awarded competitively on the basis of the need of such agencies for assistance under this subtitle and the quality of the application submitted. Section 1201(c)(3) of the bill would also add a new paragraph (3) to section 723(c) of the Act, requiring a SEA, in determining the quality of a local application for a subgrant, to consider: (1) the applicant's needs assessment and the likelihood that the program presented in the application will meet those needs; (2) the types, intensity, and coordination of the services to be provided under the program; (3) the involvement of parents or guardians; (4) the extent to which homeless children and youth will be integrated within the regular education program; (5) the quality of the applicant's evaluation plan for the program; (6) the extent to which services provided under this subtitle will be coordinated with other available services; and (7) such other measures as the SEA deems indicative of a high-quality program.

Section 1201(d) of the bill would amend section 724 of the Act (Secretarial Responsibilities). Section 1201(d) of the bill would replace current subsection (f) (Reports), with a new subsection (f) (''Information''), and a new subsection (g) (''Report''). Proposed new section 724(f) of the Act would require the Secretary, from funds appropriated under section 726 of the Act, and either directly or through grants, contracts, or cooperative

agreements, to periodically collect and disseminate data and information on the number and location of homeless children and youth, the education and related services such children and youth receive, the extent to which such needs are being met, and such other data and information as the Secretary deems necessary and relevant to carry out this subtitle. The Secretary would also be required to coordinate such collection and dissemination with the other agencies and entities that receive assistance and administer programs under this subtitle. Proposed new section 724(g) of the Act would require the Secretary, not later than four years after the date of the enactment of the bill, to prepare and submit to the President and appropriate committees of the House of Representatives and the Senate a report on the status of education of homeless youth and children.

Section 1201(e) of the bill would amend section 726 of the Act to authorize the appropriation of such sums as may be necessary for each of the fiscal years 2001 through 2005 to carry out the subtitle.

Section 1202. Amendments to Other Laws. Section 1202 of the bill would make conforming amendments to other statutes that reflect the changes to the ESEA that are proposed in this bill.

Section 1202(a) of the bill would eliminate an outdated cross-reference in section 116(a)(5) of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2326(a)(5)).

Section 1202(b) of the bill would update a cross-reference in section 317(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1059d(b)(10)).

Section 1202(3) of the bill would amend the Pro-Children Act of 1994 (20 U.S.C. 6081 *et seq.*) to eliminate references to kindergarten, elementary, and secondary education services from the prohibition against smoking contained in that Act. Proposed new Title IV of the ESEA, as amended by Title IV of the bill, contains a comparable prohibition against smoking in facilities used for education services, and the education references in the Pro-Children Act are no longer necessary.

Part B—Repeals

Section 1211. Repeals. Section 1211 of the bill would repeal Title XIII of the ESEA, several parts and titles of the Goals 2000: Educate America Act (P.L. 103–227), and Title III of the Education for Economic Security Act (20 U.S.C. 3901 *et seq.*). These provisions have either accomplished their purpose, authorize activities that are more appropriately carried out with State and local resources, or have been incorporated into the ESEA as amended by the bill.

Title XIII, Support and Assistance Programs to Improve Education, of the ESEA would be repealed. Proposed new Part D of Title II of the ESEA contains the new ESEA technical assistance and information dissemination programs.

In the Goals 2000 statute, Title I, National Education Goals; Title II, National Education Reform Leadership, Standards, and Assessments, Title III, State and Local Education Systemic Improvement; Title IV, Parental Assistance; Title VII, Safe Schools; and Title VIII, Minority-focused Civics Education, would be repealed. Part B, Gun-free Schools, of Title X of the Goals 2000 statute would also be repealed.

Next, the Educational Research, Development, Dissemination, and Improvement Act of 1994 (Title IX of P.L. 103–227) would be amended by repealing Part F, Star Schools; Part G, Office of Comprehensive School Health Education; Part H, Field Readers; and Part I, Amendments to the Carl D. Perkins Vocational and Applied Technology Act.

Title III, Partnerships in Education for Mathematics, Science, and Engineering, of the Education for Economic Security Act would also be repealed by section 1211 of the bill.

By Mr. LEAHY:

S. 1181. A bill to appropriate funds to carry out the commodity supplemental food program and the emergency food assistance program fiscal year 2000 to the Committee on Agriculture, Nutrition, and Forestry.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

Mr. LEAHY. Mr. President, I am proud to introduce a bill to increase funding for the Commodity Supplemental Food Program for Fiscal Year 2000. I look forward to working with Appropriate Committee members on this and other important matters through the appropriations process.

The Commodity Supplemental Food Program does exactly what its name suggests—it provides supplemental foods to states who distribute them to low-income postpartum, pregnant and breastfeeding women, infants, children up to age six, as well as senior citizens.

People participating in CSFP receive healthy packages of food including items such as infant formula juice, rice, pasta, and canned fruits and vegetables.

The Commodity Supplemental Food Program currently operates in twenty states and last year, more than 370,000 people participated in it every month. There still remains a great need to expand this program, as there is a waiting list of states—including my state of Vermont—who want to participate, but are not able to because of lack of funding. The bill I am introducing would fix this problem, by increasing the funding so that more women, children and seniors in need could participate. I look forward to working with the Vermont Congressional delegation on this matter.

The Commodity Supplemental Food Program has proven itself to be vitally important to senior citizens, as 243,000 of the 370,000 people who participate every month are seniors. There continues to be a great need for our seniors in Vermont, and in the rest of the nation.

This has been true for sometime, and still is the case. I successfully fought efforts a few years ago to terminate the Meals on Wheels Program. Ending that program would have been a disaster for our seniors.

According to an evaluation of the Elderly Nutrition Program of the Older Americans Act, approximately 67% to 88% of the participants are at moderate to high nutritional risk. It is further estimated that 40% of older adults have inappropriate intakes of three or more nutrients in their diets. And the results of nutritional programs on the health of seniors are amazing—for instance, it was estimated in a report that for every $1 spent on Senior Nutrition Programs, more than $3 is saved in hospital costs.

This Congress, I have taken a number of steps to address the nutritional problems facing our seniors, and have met with some success. In response to a budget request that I submitted last year, the Administration increased their funding request for the Elderly Nutrition Program by $10 million to $150 million for Fiscal year 2000. I will continue to work to see that the full $150 million is included in the final budget.

This past April I also cosponsored the Medicare Medical Nutrition Therapy Act, which provides for Medicare coverage of medical nutrition therapy services of registered dietitians and nutrition professionals. Medicare coverage of medical nutrition therapy would save money by reducing hospital admissions, shortening hospital stays, and decreasing complications.

I look forward to working with my colleagues to pass this measure into law through the normal appropriations process for fiscal year 2000.

By Mr. DOMENICI:

S. 1182. A bill to authorize the use of flat grave markers to extend the useful life of the Santa Fe National Cemetery, New Mexico, and to allow more veterans the honor and choice of being buried in the cemetery; to the Committee on Veterans' Affairs.

SANTA FE NATIONAL CEMETERY LEGISLATION

Mr. DOMENICI. Mr. President, it is with great pleasure and honor that I rise today to introduce a bill to extend the useful life of the Santa Fe National Cemetery in New Mexico.

The men and women who have served in the United States Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique throughout civilization. The service of veterans has been vital to the history of the Nation, and the sacrifices made by veterans and their families should not be forgotten.

These veterans at the very least deserve every opportunity to be buried at a National Cemetery of their choosing. However, unless Congressional action is taken the Santa Fe National Cemetery will run out of space to provide casketed burials for our veterans at the conclusion of 2000.

I believe all New Mexicans can be proud of the Santa Fe National Cemetery that has grown from 39/100 of an acre to its current 77 acres. The cemetery first opened in 1868 and within several years was designated a National Cemetery in April of 1875.

Men and women who have fought in all of nation's wars hold an honored spot within the hallowed ground of the cemetery. Today the Santa Fe National Cemetery contains almost 27,000 graves that are mostly marked by upright headstones.

However, as I have already stated, unless Congress acts the Santa Fe National Cemetery will be forced to close. The Bill I am introducing today allows the Secretary of Veterans Affairs to provide for the use of flat grave markers that will extend the useful life of the cemetery until 2008.

While I wish the practice of utilizing headstones could continue indefinitely if a veteran chose, my wishes are outweighed by my desire to extend the useful life of the cemetery. I would note that my desire is shared by the New Mexico Chapter of the American Legion, the Albuquerque Chapter of the Retired Officers' Association, and the New Mexico Chapter of the VFW who have all endorsed the use of flat grave markers.

Finally, this is not without precedent because exceptions to the law have been granted on six prior occasions with the most recent action occurring in 1994 when Congress authorized the Secretary of Veterans Affairs to provide for flat grave markers at the Willamette National Cemetery in Oregon.

Mr. President, I ask unanimous consent that a copy of the Bill and four letters of support for the use of flat grave markers be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO USE FLAT GRAVE MARKERS AT SANTA FE NATIONAL CEMETERY, NEW MEXICO.

(a) FINDINGS.—Congress makes the following findings:

(1) The men and women who have served in the Armed Forces have made immeasurable sacrifices for the principles of freedom and liberty that make this Nation unique in all civilization.

(2) The service of veterans has been vital to the history of the Nation, and the sacrifices made by veterans and their families should not be forgotten.

(3) These veterans at the very least deserve every opportunity to be buried in a National Cemetery of their choosing.

(4) The Santa Fe National Cemetery in New Mexico opened in 1868 and was designated a National Cemetery in April 1875.

(5) The Santa Fe National Cemetery now has 77 acres with almost 27,000 graves most of which are are marked by upright headstones.

(6) The Santa Fe National Cemetery will run out of space to provide for casketed burials at the end of 2000 unless Congress acts to allow the use of flat grave markers to extend the useful life of the cemetery until 2008.

(b) AUTHORITY.—Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Santa Fe National Cemetery, New Mexico.

THE AMERICAN LEGION,
DEPARTMENT OF NEW MEXICO,
Albuquerque, NM, March 31, 1997.

Mr. GIL GALLO,
Director, Santa Fe National Cemetery,
Santa Fe, NM.

DEAR MR. GALLO: The American Legion has discussed your proposal on having a section of flat cemetery markers at the National Cemetery, which would decrease the size of the individual plots; therefore making more room for our veterans, at the National Cemetery.

We are in complete agreement and in support of this venture. If we can be of assistance in any way, please advise.

Sincerely,

HARRY C. RHIZOR,
Department Commander.

ALBUQUERQUE CHAPTER,
THE RETIRED OFFICERS' ASSOCIATION,
Albuquerque, NM, March 7, 1997.

Director,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR SIR, The Albuquerque Chapter of The Retired Officers Association supports your position to begin using flat grave markers for future interments.

Sincerely,

GEORGE PIERCE,
LTC, USA, President.

VFW,
DEPARTMENT OF NEW MEXICO,
Albuquerque, NM, April 16, 1997.

GILL GALLO,
Director, Department of Veterans Affairs,
Santa Fe National Cemetery,
Santa Fe, NM.

DEAR MR. GALLO: This letter will acknowledge receipt of your informational letter concerning the Santa Fe National Cemetery dated April 4, 1997. Please be advised that I took the liberty to circulate the information to VFW Post Commanders located in Northern New Mexico. The following is our consensus.

Although we would want to continue with the upright marble headstones which are provided with the 5x10 grave site, we found it more important to extend the life of the National Cemetery therefore we support your efforts to utilize the granite markers and the recommended 4x8 grave sites. We are also in agreement with your recommendations for a columbarium for the burial of our cremated Comrades.

Please thank your staff for the outstanding work and service which they provide our departed Comrades and Veterans. Let me also thank you for providing us with the specific information needed to come to our decision.

As State Commander of the Veterans of Foreign Wars of the United States of America Department of New Mexico I pledge our full support of your recommendation and would ask that you forward this letter of support to your Washington Office.

May God Bless America and our men and women who served and serve in our military armed forces.

Yours in comradeship,

ROBERT O. PEREA,
State Commander.

DEPARTMENT OF VETERANS AFFAIRS,
DIRECTOR NATIONAL CEMETERY SYSTEM,
Washington, DC, January 9, 1998.

MICHAEL C. D'ARCO,
Director, New Mexico Veterans
Services Commission
Santa Fe, NM.

DEAR MR. D'ARCO. I know that you are completing your study on the issue of veterans cemeteries in New Mexico. Following is information on the Santa Fe National Cemetery.

There is approximately a three-year inventory of casketed sites readily available for immediate use in the recently developed sections of the cemetery, sections 10, 11, and 12. If no other casketed sites are developed, then we would exhaust this inventory in 2001.

Based on our understanding that future flat marker gravesite sections on the east side of the cemetery are acceptable to veterans and the neighboring community, an additional seven-year inventory of sites can be developed in that portion of the cemetery. This would extend the useful life of the cemetery for casketed burials to the year 2008. While this is just a general estimate, and exact details will not be available until a more formal design is completed, we anticipate developing and using these sites. Accordingly, the 2008 date is the date to use in your study for casketed gravesite closure of the Santa Fe National Cemetery.

It is important to note that we anticipate being able to provide for inground cremation service well beyond the year 2030. Consideration will also be given toward columbarium development.

Incidentally, we are estimating Fort Bayard National Cemetery's closure date as 2027, but we are optimistic that potential exists beyond that date. I hope this information is useful to you. If you have any questions, please contact me or Roger R. Rapp on my staff at 202–273–5225.

Sincerely yours,

JERRY W. BOWEN.

By Mr. NICKLES:

S. 1183. A bill to direct the Secretary of Energy to convey to the city of Bartlesville, Oklahoma, the former site of the NIPER facility of the Department of Energy; to the Committee on Energy and Natural Resources.

NIPER LEGISLATION

Mr. NICKLES. Mr. President, today I am introducing legislation that will transfer ownership of land owned by the Department of Energy (DOE) and known as the National Institute of Petroleum Energy Research (NIPER) to the City of Bartlesville for business and educational purposes.

The NIPER facility was originally established in 1918 as the Petroleum Experiment Station by the U.S. Bureau of Mines. Its purpose was to provide research targeted to oil and gas field problems. In 1936, as World War II approached, additions to the Work Project Administration building were erected. Its research was expanded to help the war effort. During the 1973–1974 energy crisis, the center was renamed the Bartlesville Energy Research Center. When the Center privatized in 1983, it was renamed the National Institute for Petroleum and Energy Research (NIPER). NIPER closed its operations on December 22, 1998.

According to the Surplus Property Act of 1949, excess federal property is screened for use by the following: Housing and Urban Development, Health and Human Services, and local and state organizations including nonprofit organizations. At the conclusion of the screening process, a negotiated sale is conducted. If the property is still undeclared it goes to auction.

Unfortunately this process can take many years, thus preventing the city of Bartlesville from realizing any near-term economic boost from NIPER's redevelopment. Consequently, this legislation is needed to ensure that the NIPER facilities are redeveloped as quickly as possible in order to provide a prompt economic boost to the community. This legislation also will ensure that the NIPER facilities do not deteriorate while the property is being

processed through the lengthy steps of the Surplus Property Act and therefore make re-use impossible.

The City of Bartlesville intends to provide an educational facility and a place for business and industry that would facilitate job creation through technology and investment. The NIPER facility will also provide housing for administrative services for community development organization such as United Way, Women and Children in Crisis, and various homeless programs. This project enjoys the strong support of the Mayor of Bartlesville and other locally elected officials.

By Mr. DOMENICI (for himself and Mr. KYL):

S. 1184. A bill to authorize the Secretary of Agriculture to dispose of land for recreation or other public purposes; to the Committee on Energy and Natural Resources.

NATIONAL FOREST SYSTEM COMMUNITY PURPOSES ACT

Mr. DOMENICI. Mr. President, I rise to introduce important legislation, cosponsored by Senator KYL, that would allow the Forest Service to convey parcels of land to States and local governments, on the condition that it be used for a specific recreational or local public purpose. The National Forest System Community Purposes Act is patterned after an existing law that set in place one of the most successful local community assistance programs under the Bureau of Land Management (BLM).

That law, the Recreation and Public Purposes Act, was enacted in 1926. Under its authority, the BLM has been able to work cooperatively with States and communities to provide land needed for recreational areas and other public projects to benefit local communities in areas where Federal land dominates the landscape. With skyrocketing demands on the Forest Service and local communities to provide accommodations and other services for an ever-increasing number of Americans who take advantage of all the opportunities available in the national forests, I believe the time has come to provide this ability to the Forest Service.

In the 1996 Omnibus Parks and Public Lands Management Act, there were no fewer than 31 boundary adjustments, land conveyances, and exchanges authorized, many of which dealt with national forests. Had this legislation been enacted at that time, I cannot say for sure how many of these provisions would have been unnecessary, but I expect the number would have been reduced by at least one-third.

During the 105th Congress, I sponsored three bills that directed the Secretary of Agriculture to convey small tracts Forest Service land to communities in New Mexico. All three bills were subsequently passed in the Senate unanimously, but two of these bills were not enacted last year, and the Senate has once again seen fit to pass them in the 106th Congress. We now await action in the House. I know that other Senators are faced with a similar situation of having to shepherd bills through the legislative process simply to give the Forest Service the authority to cooperate with local communities on projects to meet local needs.

Over one-third of the land in New Mexico is owned by the federal government, and therefore finding appropriate sites for community and educational purposes can be difficult. Communities adjacent to and surrounded by National Forest System land have limited opportunities to acquire land for certain recreational and other local public purposes. In many cases, these recreational and other local needs are not within the mission of the Forest Service, but would not be inconsistent with forest plans developed for the adjacent national forest. To compound the problem, small communities are often unable to acquire land due to its extremely high market value resulting from the predominance of Federal land in the local area.

The subject of one of the bills I just alluded to provides an excellent example of the problem. That bill provided for a one-acre conveyance to the Village of Jemez Springs, New Mexico. The land is to be used for a desperately needed fire substation, which will obviously benefit public safety for the local community. Since over 70 percent of the emergency calls in this particular community are for assistance on the Santa Fe National Forest, however, the Forest Service would also benefit greatly from this new station.

In fairness, the Forest Service was very willing to sell this land to the village, but they were constrained by current law to charge the appraised fair market value. Herein lies the biggest problem for small communities like Jemez Springs. In this case, the appraised value of an acre of land along the highway, obviously necessary for this kind of a facility, was estimated to be around $50,000. Combined with the cost of building the station itself, this additional cost put the project out of reach of the community's 400 residents.

Through this example, it is clear to see that both the national forests and adjacent communities could mutually benefit from a process similar to that under the Recreation and Public Purposes Act. This program has worked so well for the BLM over the years, I see no reason for the Forest Service not to have the same kind of authority.

The National Forest System Community Purposes Act would give the Secretary of Agriculture the authority to convey or lease parcels of Forest Service land to States, counties, or other incorporated communities at a cost that could be less than fair market value. In order to obtain the land, the State or community would develop a plan of use that would be subject to Forest Service approval.

In closing, Mr. President, I think the time has come for this legislation. In fact, during a recent discussion I had with Forest Service Chief Dombeck, he was somewhat surprised to learn that the agency did not already have this authority. I would urge the Senate to provide this needed assistance to local communities around the country.

By Mr. ABRAHAM (for himself, Mr. LIEBERMAN, Mr. HATCH, Mr. MCCAIN, Mr. MCCONNELL, Mr. LOTT, Mr. BOND, Mr. ASHCROFT, Mr. COVERDELL, Mr. NICKLES, Mr. BROWNBACK, Mr. GORTON, Mr. GRASSLEY, Mr. SESSIONS, Mr. BURNS, Mr. INHOFE, Mr. HELMS, Mr. ALLARD, Mr. HAGEL, Mr. MACK, Mr. BUNNING, Mr. JEFFORDS, Mr. DEWINE, Mr. CRAIG, Mr. HUTCHINSON, and Mr. ENZI):

S. 1185. A bill to provide small business certain protections from litigation excesses and to limit the product liability of non-manufacturer product sellers; to the Committee on the Judiciary.

THE SMALL BUSINESS LIABILITY REFORM ACT OF 1999

Mr. ABRAHAM. Mr. President, I rise today to introduce the Small Business Liability Reform Act of 1999, legislation that will provide targeted relief to small businesses nationwide.

Small businesses in Michigan and across this nation are faced with a daily threat of burdensome litigation, a circumstance which has created a desperate need for relief from unwarranted and costly lawsuits. While other sectors of our society and our economy also need relief from litigation excesses, small businesses by their very nature are particularly vulnerable to lawsuit abuse, and find it particularly difficult to bear the high cost of defending themselves against unjustified and unfair litigation.

Small businesses represent the engine of our growing economy and provide countless benefits to communities across America. The Research Institute for Small and Emerging Business, for example, has estimated that there are over 20 million small businesses in America, and that these small businesses generate 50 percent of our country's private sector output.

My small business constituents relate story after story describing the constraints, limitations and fear posed by the very real threat of abusive and unwarranted litigation. The real world impact translates into high-cost liability insurance, which wastes resources that could instead be used to expand small businesses, to provide more jobs, or to offer more benefits to employees. According to a recent Gallup survey, one out of every five small businesses decides not to hire more employees, expand its business, introduce a new product, or improve an existing product because of the fear of lawsuits—not entrepeneurial risk, not lack of capital resources, but lawsuits.

In the same vein, innocent product sellers—often small businesses like your neighborhood corner grocery

store—have also described the high legal costs they incur when they are needlessly drawn into product liability lawsuits. The unfairness in these cases is astonishing—the business may not even produce a product, but is still sued for product defects. The reason? It is no secret that courts differ in how favorably they look upon product liability suits—some are receptive, others outright hostile. So even though a local store neither designs nor manufactures the product, it is routinely dragged into court because the plaintiff's attorney desires to pull manufacturers into a favorable forum. That's called ''forum shopping'' on the part of the plaintiff, and the practice causes needless financial damage to America's small businesses. And while the nonculpable product seller is rarely found liable for damages, it must still bear the enormous cost of defending itself against these unwarranted suits. Rental and leasing companies are in a similarly vulnerable position, as they are commonly held liable for the wrongful conduct of their customers even though the companies themselves are found to have committed no wrong.

The 105th Congress passed the Volunteer Protection Act, which provides specific protections from abusive litigation to volunteers. The Senate passed that legislation by an overwhelming margin of 99–1, and the President signed it, making it Public Law 105–19. That legislation provides a model for further targeted reforms for sectors of our economy that are particularly hard hit and in need of immediate relief. I believe it is high time for small business liability reform, time to take this small step, time to shield those not at fault from needless expense and unwarranted distress.

Mr. President, I'd like to take a moment and provide a little background on our effort, as I believe it will highlight the desperate need for reform. Small businesses shoulder an often unbearable load from unwarranted and unjustified lawsuits. Data from San Diego's Superior Court published by the Washington Legal Foundation reveals that punitive damages are requested in 41 percent of suits against small businesses. It is simply unfathomable that such a large proportion of our small businesses could be engaging in the sort of egregious misconduct that would warrant a claim of punitive damages. Similarly, the National Federal of Independent Business reports that 34 percent of Texas small business owners are sued or threatened with court action seeking punitive damages; again, the outrageously high rate of prayer for punitive damages simply cannot have anything to do with actual wrongdoing by the defendant.

The specifics of the cases are no better. In a case reported by the American Consulting Engineers Council, a drunk driver had an accident after speeding and bypassing detour signs. Eight hours after the crash, the driver still had a blood alcohol level of .09. Nonetheless, the driver sued the engineering firm that designed the road, the contractor, the subcontractor, and the state highway department. Five years later, and after expending exorbitant amounts on legal fees, the defendants settled the case for $35,000. The engineering firm, a small 15 person firm, was swamped with over $200,000 in legal costs—an intolerable amount for a small business to have to pay in defending an unwarranted lawsuit.

There are more examples. An Ann Landers column from October, 1995, reported a case in which a minister and his wife sued a guide-dog school for $160,000 after a blind man who was learning to use a seeing-eye dog stepped on the minister's wife's toes in a shopping mall. The guide-dog school, Southeastern Guide Dogs, Inc., which provided the instructor supervising the man, was the only school of its kind in the southeast. It trains seeing-eye dogs at no cost to the visually impaired. The couple filed their lawsuit 13 months after the so-called accident, in which witnesses reported that the woman did not move out of the blind man's way because she wanted to see if the dog would walk around her.

The experience of a small business in Michigan, the Michigan Furnace Company, is likewise alarming. The President of that company has reported that every lawsuit in the history of her company has been a nuisance lawsuit. She indicates that if the money the company spends on liability insurance and legal fees were distributed among employees, it would amount to a $10,000 annual raise. That's real money, and that's a real cost coming right out of the pocket of Michigan workers.

These costs are stifling our small businesses and the careers of people in their employ. The straightforward provisions of Title I of the Small Business Lawsuit Abuse Protection Act will provide small businesses with relief by discouraging abusive litigation. This section contains two principal reforms.

First, the bill limits punitive damages that may be awarded against a small business. In most civil lawsuits against small businesses, punitive damages would be available against the small business only if the claimant proves by clear and convincing evidence that the harm was caused by the small business through at least a conscious, fragrant indifference to the rights and safety of the claimant. Punitive damages would also be limited in amount to the lesser of $250,000 or two times the compensatory damages awarded for the harm. That formulation is exactly the same as that in the small business protection provision that was included in the Product Liability Conference Report passed in the 104th Congress.

Second, joint and several liability reforms for small businesses are included under the exact same formulation used in the Volunteer Protection Act passed in the 105th Congress and in the Protection Liability Conference Report passed in the 104th Congress. Joint and several liability would be limited such that a small business would be liable for noneconomic damages only in proportion to the small business's responsibility for causing the harm. If a small business is responsible for 100 percent of an accident, then it will be liable for 100 percent of noneconomic damages. But if it is only 70 percent, 25 percent, 10 percent or any other percent responsible, then the small business will be liable only for a like percentage of noneconomic damages.

Small businesses would still be jointly and severally liable for economic damages, and any other defendants in the action that were not small businesses could be held jointly and severally liable for all damages. But the intent of this provision is to provide some protection to small businesses, so that they will not be sought out as ''deep pocket'' defendants by trail lawyers who would otherwise try to get small businesses on the hook for harms that they have not caused. The fact is that many small businesses simply do not have deep pockets, and they frequently need all of their resources just to stay in business, take care of their employees, and make ends meet.

Other provisions in this title specify the situations in which its reforms apply. The title defines small business as any business having fewer than 25 employees, the same definition included in the Product Liability Conference Report. Like the Volunteer Protection Act, this title covers all civil lawsuits except those involving certain types of egregious misconduct. The limitations on liability would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or damages that occurred while the defendant was under the influence of intoxicating alcohol or any drug. Any finally, like the Volunteer Protection Act, this title includes a State opt-out. A State would be able to opt out of these provisions provided that the State enacts a law indicating its election to do so and containing no other provisions. I do not expect that any State will opt-out of these provisions, but I feel it is important to include one out of respect for principles of federalism.

Title II of the Act addresses liability reform for non-culpable product sellers, commonly small businesses, who have long sought help in gaining a degree of protection from unwarranted lawsuits. Product sellers, like your corner grocery store, provide a crucial service to all of us by offering a convenient source for a wide assortment of goods. Unfortunately, current law subjects them to harassment and unnecessary litigation; in about twenty-nine states, product sellers are drawn into the overwhelming majority of product liability cases even though they play

no part in the designing and manufacturing process, and are not to blame in any way for the harm. It is pointless to haul a product seller into the litigation when everyone in the system knows that the seller is not at fault. Dragging in the neighborhood convenience store helps no one, not the claimant, not the product seller, and certainly not the consumer. All it does is increase the cost to product sellers of doing business in our neighborhoods, because these businesses are unnecessarily forced to bear the cost of court expenses in their defense.

Again, the real-world background presents a compelling case. In one instance, a product seller was dragged into a product liability suit even though the product it sold was shipped directly from the manufacturer to the plaintiff. In the end, the manufacturer—not the product seller—had to pay compensation to the plaintiff. Unfortunately, this was after the product seller has been forced to spend $25,000 in court expenses $25,000 that could have been used to expand the business or to provide higher salaries.

Title II would allow a plaintiff to sue a product seller only when the product seller is responsible for the harm or when the plaintiff cannot collect from the manufacturer. This limitation would cover all product liability actions brought in any Federal or State Court. However, we have specifically ensured that the provision does not apply to actions brought for certain commercial losses, and actions brought under a theory of dram-shop or third party liability arising out of the sale of alcoholic products to intoxicated persons or minors.

Additionally, rental or leasing companies are often unfairly subjected to lawsuits based on vicarious liability, which holds these companies responsible for acts committed by an individual rentee or lessee. In several states, these companies are subject to liability for the negligent tortious acts of their customers even if the rental company is not negligent and the product is not deffective. This type of fault-ignorant liability is detrimental to the economy because it increases non-culpable companies' costs, costs which are ultimately passed along to the rental customers.

Settlements and judgements from vicarious liability claims against auto rental companies cost the industry approximately $100 million annually. In Michigan, for example, a renter lost control of a car and drove off the highway. The care flipped over several times, killing a passenger who was not wearing a seat belt. The car rental company, which was not at fault, nevertheless settled for $1.226 million out of fear of being held vicariously liable for the passenger's death.

In another case, four British sailors rented a car from Alamo to drive from Fort Lauderdale to Naples. The driver fell asleep at the wheel, and his car left the road and ended up in a canal. The driver and two passengers were killed, while the fourth passenger was seriously injured. Although the Court found Alamo not to have acted negligently, Alamo was ordered by a jury to pay the plaintiffs $7.7 million solely due to Alamo's ownership of the vehicle.

Often even when the injured party and the driver are both at fault, it is the innocent rental company that has to bear the resulting expenses. For example, an individual in a rented auto struck a pedestrian at an intersection in a suburban commercial area on Long Island. The pedestrian, who was intoxicated, was jay-walking on her way from one bar to another. The driver was also intoxicated. The pedestrian unfortunately sustained a traumatic brain injury and was left in a permanent vegetative state. Although the auto rental company was clearly not at fault in this case, the result is predictable: the rental company was forced to settle for $8.5 million out of fear of a much larger jury award.

We believe that subjecting product renters and lessors to vicarious liability is not only unfair, but also increases the cost to all consumers. Title II resolves this problem by providing that product renters and lessors shall not be liable for the wrongful acts of another solely by reason of product ownership—product renters and lessors would only be responsible for their own acts.

I am pleased to have Senators LIEBERMAN, HATCH, MCCAIN, MCCONNELL, LOTT, BOND, ASHCROFT, COVERDELL. NICKLES, BROWNBACK, GORTON, GRASSLEY, SESSIONS, BURNS, INHOFE, HELMS, ALLARD, HAGEL, MACK, BUNNING, JEFFORDS, DEWINE, CRAIG, HUTCHISON, and ENZI as original cosponsors of the legislation and very much appreciate their support for our small businesses and for meaningful litigation reform. The list of business organizations supporting this bill is also impressive, and includes the following: National Federation of Independent Business, the National Restaurant Association, The National Association of Wholesalers, The National Retail Federation, The American Auto Leasing Association, The American Consulting Engineers Council, The Small Business Legislative Council, National Small Business United, The National Association of Convenience Stores. The American Car Rental Association, The International Mass Retail Association, the Associated Builders and Contractors, and the National Equipment Leasing Association.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Liability Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—SMALL BUSINESS LAWSUIT ABUSE PROTECTION

SEC. 101. FINDINGS.

Congress finds that—

(1) the United States civil justice system is inefficient, unpredictable, unfair, costly, and impedes competitiveness in the marketplace for goods, services, business, and employees;

(2) the defects in the civil justice system have a direct and undesirable effect on interstate commerce by decreasing the availability of goods and services in commerce;

(3) there is a need to restore rationality, certainty, and fairness to the legal system;

(4) the spiralling costs of litigation and the magnitude and unpredictability of punitive damage awards and noneconomic damage awards have continued unabated for at least the past 30 years;

(5) the Supreme Court of the United States has recognized that a punitive damage award can be unconstitutional if the award is grossly excessive in relation to the legitimate interest of the government in the punishment and deterrence of unlawful conduct;

(6) just as punitive damage awards can be grossly excessive, so can it be grossly excessive in some circumstances for a party to be held responsible under the doctrine of joint and several liability for damages that party did not cause;

(7) as a result of joint and several liability, entities including small businesses are often brought into litigation despite the fact that their conduct may have little or nothing to do with the accident or transaction giving rise to the lawsuit, and may therefore face increased and unjust costs due to the possibility or result of unfair and disproportionate damage awards;

(8) the costs imposed by the civil justice system on small businesses are particularly acute, since small businesses often lack the resources to bear those costs and to challenge unwarranted lawsuits;

(9) due to high liability costs and unwarranted litigation costs, small businesses face higher costs in purchasing insurance through interstate insurance markets to cover their activities;

(10) liability reform for small businesses will promote the free flow of goods and services, lessen burdens on interstate commerce, and decrease litigiousness; and

(11) legislation to address these concerns is an appropriate exercise of the powers of Congress under clauses 3, 9, and 18 of section 8 of

article I of the Constitution of the United States, and the 14 amendment to the Constitution of the United States.

SEC. 102. DEFINITIONS.

In this title:

(1) ACT OF INTERNATIONAL TERRORISM.—The term ''act of international terrorism'' has the same meaning as in section 2331 of title 18, United States Code.

(2) CRIME OF VIOLENCE.—The term ''crime of violence'' has the same meaning as in section 16 of title 18, United States Code.

(3) DRUG.—The term ''drug'' means any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802(b)) that was not legally prescribed for use by the defendant or that was taken by the defendant other than in accordance with the terms of a lawfully issued prescription.

(4) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(5) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic losses.

(6) HATE CRIME.—The term ''hate crime'' means a crime described in section 1(b) of the Hate Crime Statistics Act (28 U.S.C. 534 note).

(7) NONECONOMIC LOSS.—The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(8) SMALL BUSINESS.—

(A) IN GENERAL.—The term ''small business'' means any unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has less than 25 full-time employees.

(B) CALCULATION OF NUMBER OF EMPLOYEES.—For purposes of subparagraph (A), the number of employees of a subsidiary of a wholly owned corporation includes the employees of—

(i) a parent corporation; and

(ii) any other subsidiary corporation of that parent corporation.

(9) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 103. LIMITATION ON PUNITIVE DAMAGES FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, punitive damages may, to the extent permitted by applicable State law, be awarded against the small business only if the claimant establishes by clear and convincing evidence that conduct carried out by that defendant through willful misconduct or with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action.

(b) LIMITATION ON AMOUNT.—In any civil action against a small business, punitive damages shall not exceed the lesser of—

(1) 2 times the total amount awarded to the claimant for economic and noneconomic losses; or

(2) $250,000.

(c) APPLICATION BY COURT.—This section shall be applied by the court and shall not be disclosed to the jury.

SEC. 104. LIMITATION ON SEVERAL LIABILITY FOR NONECONOMIC LOSS FOR SMALL BUSINESSES.

(a) GENERAL RULE.—Except as provided in section 105, in any civil action against a small business, the liability of each defendant that is a small business, or the agent of a small business, for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—In any civil action described in subsection (a)—

(A) each defendant described in that subsection shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable; and

(B) the court shall render a separate judgment against each defendant described in that subsection in an amount determined under subparagraph (A).

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the harm to the claimant, regardless of whether or not the person is a party to the action.

SEC. 105. EXCEPTIONS TO LIMITATIONS ON LIABILITY.

The limitations on liability under sections 103 and 104 do not apply to any misconduct of a defendant—

(1) that constitutes—

(A) a crime of violence;

(B) an act of international terrorism; or

(C) a hate crime;

(2) that results in liability for damages relating to the injury to, destruction of, loss of, or loss of use of, natural resources described in—

(A) section 1002(b)(2)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2702(b)(2)(A)); or

(B) section 107(a)(4)(C) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(a)(4)(C));

(3) that involves—

(A) a sexual offense, as defined by applicable State law; or

(B) a violation of a Federal or State civil rights law; or

(4) if the defendant was under the influence (as determined under applicable State law) of intoxicating alcohol or a drug at the time of the misconduct, and the fact that the defendant was under the influence was the cause of any harm alleged by the plaintiff in the subject action.

SEC. 106. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—Subject to subsection (b), this title preempts the laws of any State to the extent that State laws are inconsistent with this title, except that this title shall not preempt any State law that provides additional protections from liability for small businesses.

(b) ELECTION OF STATE REGARDING NONAPPLICABILITY.—This title does not apply to any action in a State court against a small business in which all parties are citizens of the State, if the State enacts a statute—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this title does not apply as of a date certain to such actions in the State; and

(3) containing no other provision.

SEC. 107. EFFECTIVE DATE.

(a) IN GENERAL.—This title shall take effect 90 days after the date of enactment of this Act.

(b) APPLICATION.—This title applies to any claim for harm caused by an act or omission of a small business, if the claim is filed on or after the effective date of this title, without regard to whether the harm that is the subject of the claim or the conduct that caused the harm occurred before such effective date.

TITLE II—PRODUCT SELLER FAIR TREATMENT

SEC. 201. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although damage awards in product liability actions may encourage the production of safer products, they may also have a direct effect on interstate commerce and consumers of the United States by increasing the cost of, and decreasing the availability of products;

(2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that may be inequitable with respect to plaintiffs and defendants and may impose burdens on interstate commerce;

(3) product liability awards may jeopardize the financial well-being of individuals and industries, particularly the small businesses of the United States;

(4) because the product lability laws of a State may have adverse effects on consumers and businesses in many other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) under clause 3 of section 8 of article I of the United States Constitution, it is the constitutional role of the Federal Government to remove barriers to interstate commerce.

(b) PURPOSES.—The purposes of this Act, based on the powers of the United States under clause 3 of section 8 of article I of the United States Constitution, are to promote the free flow of goods and services and lessen the burdens on interstate commerce, by—

(1) establishing certain uniform legal principles of product liability that provide a fair balance among the interests of all parties in the chain of production, distribution, and use of products; and

(2) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harms both plaintiffs and defendants.

SEC. 202. DEFINITIONS.

In this title:

(1) ALCOHOL PRODUCT.—The term ''alcohol product'' includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) CLAIMANT.—The term ''claimant'' means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) COMMERCIAL LOSS.—The term ''commercial loss'' means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss, the recovery of which is governed by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(4) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means damages awarded for economic and noneconomic losses.

(5) DRAM-SHOP.—The term ''dram-shop'' means a drinking establishment where alcoholic beverages are sold to be consumed on the premises.

(6) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(7) HARM.—The term ''harm'' includes physical, nonphysical, economic, and noneconomic loss.

(8) MANUFACTURER.—The term ''manufacturer'' means—

(A) any person who—

(i) is engaged in a business to produce, create, make, or construct any product (or component part of a product); and

(ii)(I) designs or formulates the product (or component part of the product); or

(II) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) that are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) that holds itself out as a manufacturer to the user of the product.

(9) NONECONOMIC LOSS.—The term ''noneconomic loss'' means loss for physical or emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), injury to reputation, or any other nonpecuniary loss of any kind or nature.

(10) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(11) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term ''product'' does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(12) PRODUCT LIABILITY ACTION.—The term ''product liability action'' means a civil action brought on any theory for any physical injury, illness, disease, death, or damage to property that is caused by a product.

(13) PRODUCT SELLER.—

(A) IN GENERAL.—The term ''product seller'' means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term ''product seller'' does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(14) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

SEC. 203. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), this title governs any product liability action brought in any Federal or State court.

(2) ACTIONS EXCLUDED.—

(A) ACTIONS FOR COMMERCIAL LOSS.—A civil action brought for commercial loss shall be governed only by applicable State commercial or contract laws that are similar to the Uniform Commercial Code.

(B) ACTIONS FOR NEGLIGENT ENTRUSTMENT; NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION; DRAM-SHOP.—

(i) NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION.—A civil action brought under a theory of negligence per se concerning the use of a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(iii) DRAM-SHOP.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor shall not be subject to the provisions of this title, but shall be subject to any applicable Federal or State law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any State law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8))).

SEC. 204. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action covered under this Act, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of

this title to any person subject to that paragraph, the term ''product liability action'' means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 202(13)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 205. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction under this title based on section 1331 or 1337 of title 28, United States Code.

SEC. 206. EFFECTIVE DATE.

This title shall apply with respect to any action commenced on or after the date of enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before that date of enactment.

THE SMALL BUSINESS LIABILITY REFORM ACT OF 1999—SECTION-BY-SECTION ANALYSIS

A bill to offer small businesses and product sellers certain protections from litigation excesses.

TITLE I: SMALL BUSINESS LAWSUIT ABUSE PROTECTION

Section 101: Findings

This section sets out congressional findings concerning the litigation excesses facing small businesses, and the need for litigation reforms to provide certain protections to small businesses from abusive litigation.

Section 102: Definitions

Various terms used in this title are defined in this section. Significantly, for purposes of the legislation, a small business is defined as any business or organization with fewer than 25 full time employees.

Section 103: Limitation on punitive damages for small businesses

This section provides that punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant that is a small business only if the claimant establishes by clear and convincing evidence that conduct carried out by that defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action.

This section also limits the amount of punitive damages that may be awarded against a small business. In any civil action against a small business, punitive damages may not exceed the lesser of two times the amount awarded to the claimant for economic and noneconomic losses, or $250,000.

Section 104: Limitation on several liability for noneconomic loss for small business

This section provides that, in any civil action against a small business, for each defendant that is a small business, the liability of that defendant for noneconomic loss will be in proportion to that defendant's responsibility for causing the harm. Those defendants would continue, however, to be held jointly and severally liable for economic loss. In addition, any other defendants in the action that are not small businesses would continue to be held jointly and severally liable for both economic and noneconomic loss.

Section 105: Exceptions to limitations on liability

The limitations on liability included in this title would not apply to any misconduct that constitutes a crime of violence, act of international terrorism, hate crime, sexual offense, civil rights law violation, or natural resource damages, or which occurred while the defendant was under the influence of intoxicating alcohol or any drug.

Section 106: Preemption and election of State nonapplicability

This title preempts State laws to the extent that any such laws are inconsistent with it, but it does not preempt any State law that provides additional protections from liability to small businesses. The title also includes an opt-out provision for the States. A State may opt out of the provisions of the title for any action in State court against a small business in which all parties are citizens of the State. In order to opt out, the State would have to enact a statute citing the authority in this section, declaring the election of the State to opt, and containing no other provisions.

Section 107: Effective date

This title would take effect 90 days after the date of enactment, and would apply to claims filed on or after the effective date.

TITLE II: PRODUCT SELLER FAIR TREATMENT

Section 201: Findings

This section sets out congressional findings concerning the effect of damage awards in product liability actions on interstate commerce, the present inequities resulting from inconsistent product liability laws within and among the States, and the need for national, uniform federal product liability laws.

Section 202: Definitions

Various terms and phrases used in this title are defined.

Section 203: Applicability; preemption

This title applies to any product liability action brought in any Federal or State court. Civil actions for commercial loss; negligent entrustment; negligence per se concerning firearms and ammunition; and civil actions for dram shop liability are excluded from the applicability of this title.

This section further establishes that the preemption of state law by this title is congruent with coverage, and the limit of the preemptive scope of this title is detailed.

Section 204: Liability rules applicable to product sellers, renters and lessors

Product sellers other than the manufacturer (wholesaler-distributors and retailers, for example) may be held liable only if they are directly at fault for a harm; if the harm was caused by the failure of the product to conform to the product seller's own, independent express warranty; or if harm was the result of the product seller's intentional wrongdoing.

Product sellers shall ''stand in the shoes'' of a culpable manufacturer when the manufacturer is ''judgement-proof.'' The statute of limitations in such cases is tolled.

Finally, product renters and lessors shall not be liable for the tortuous acts of another solely by reason of product ownership.

Section 205: Federal cause of action precluded

This title does not create Federal district court jurisdiction pursuant to Sections 1331 or 1337 of Title 28, United States Code.

Section 206: Effective date

This title shall apply to any action commenced on or after the date of enactment.

NAW ENDORSES ABRAHAM-LIEBERMAN LEGAL REFORM BILL

LEGISLATION WOULD REDUCE UNNECESSARY LITIGATION; COSTS

WASHINGTON, D.C.—The National Association of Wholesaler-Distributors (NAW) today gave its ''enthusiastic and wholehearted support'' to the Small Business Liability Reform Act of 1999, which would significantly reduce the exposure of wholesaler-distributors and retailers to unwarranted product liability lawsuits and legal costs.

The legislation, introduced in the U.S. Senate today by Senators Spencer Abraham (R–MI) and Joseph Lieberman (D–CT), would eliminate joint (''deep pockets'') liability for ''noneconomic loss'' and limit punitive damage awards to $250,000 for employers with fewer than 25 full-time employees that become defendants in civil lawsuits. Neither of these provisions would apply to lawsuits involving certain egregious misconduct, and states would be able to opt-out by statute.

In product liability lawsuits, the bill would limit the liability of non-manufacturer product sellers such as wholesaler-distributors, retailers, lessors and renters to harms caused by their own negligence or intentional wrongdoing, the product's breech of the seller's own express warranty, and for the product manufacturer's responsibility when the manufacturer is judgment-proof.

''The product liability laws of a majority of states do not make the distinction between the differing roles of manufacturers and non-manufacturer product sellers. As a result, blameless wholesaler-distributors are routinely joined in product liability lawsuits simply because they are in the product's chain of distribution,'' explained George Keeley, NAW general counsel and senior partner in the firm of Keeley, Kuenn & Reid. ''In the end, the staggering legal fees which cost the seller dearly do not benefit the claimant in any way. These costs will be significantly reduced if the Abraham-Lieberman bill is enacted.''

''For too long, wholesaler-distributors have been among the victims of a product liability system that serves the interests of trial lawyers very well, at everyone else's expense,'' said Dirk Van Dongen, NAW's president. ''For nearly two decades, NAW has vigorously advocated Federal legislation to rein-in these abuses. Enactment of the Small Business Liability Reform Act of 1999 is at the very top of our agenda for the 106th Congress and I commend Senators Abraham and Lieberman for their continuing, tireless leadership of this important effort.''

NFIB BACKS NEW LEGAL REFORM INITIATIVE

WASHINGTON, D.C.—The National Federation of Independent Business (NFIB) will champion a new legal reform proposal that aims to protect small-business owners from frivolous lawsuits and the threat of being ''stuck with the whole tab'' for damage awards arising from incidents in which they were only ''bit players.''

The nation's leading small-business advocacy group, NFIB hailed today's introduction of the Small Business Liability Reform Act of 1999. Sponsored by U.S. Sens. Spencer Abraham (Mich.) and Joseph Lieberman (Conn.), the proposal would limit the amount of punitive damages that might be sought from a small firm to two times the amount of compensatory damages or $250,000, whichever is less.

The measure also would eliminate joint-and-several liability for small firms, leaving them responsible for paying only their ''proportionate'' share of non-economic damages. Under the current doctrine of joint-and-several liability, defendants found to be as little as 1 percent ''at fault'' in a civil case may end up paying all assessed damages, if no other defendants are able to pay.

''This bill strikes a long-overdue blow on behalf of fairness, common sense and true justice,'' said Dan Danner, NFIB's vice president of federal public policy. ''Limiting punitive damages and exposure to liability will

make small businesses a much less lucrative—and, thus, a much less attractive—target for trial lawyers and others tempted to file frivolous lawsuits to extort settlements.

''Ending joint-and-several liability will improve justice by making sure small-business owners pay their fair share of damages—but not more,'' he continued. ''Under the current doctrine, the effort to compensate one victim often creates yet another victim—the marginally-involved business owner who is left holding the bag for everyone else involved.''

The Abraham-Lieberman bill would limit liability in all types of civil lawsuits for businesses with fewer than 25 employees. NFIB's Danner estimated the liability limitations would apply to ''a little more than 90 percent'' of all employing businesses. ''Passage would bring relief to literally millions of small-business owners and their families,'' he said. ''It would certainly ease Main Street's growing anxiety about being slapped with—and ruined by—a Mickey Mouse lawsuit.''

''When we asked our members in Alabama to identify the biggest problem facing their businesses, the most frequent answer, by far, was 'cost of liability insurance/fear of lawsuits','' Danner noted. ''Another problem, 'street crime,' drew only a third as many responses.

''There's something dreadfully wrong with our justice system when small-business owners are three times more fearful of being mugged by trial lawyers than by common street thugs.''

A nationwide survey of NFIB's 600,000 members found virtually all (93 percent) favor capping punitive damages. ''Small-business owners support any measures that will restore fairness, balance and common sense to our civil justice system,'' Danner said. ''We have pledged our full support to Sens. Abraham and Lieberman in their efforts to do just that, through their Small Business Liability Reform Act.''

Eliminating frivolous lawsuits is a priority in NFIB's Small Business Growth Agenda for the 106th Congress. To learn more about the Act of NFIB's Agenda, please contact McCall Cameron at 202/554–9000.

SBLC Applauds Senator Abraham's Small Business Liability Reform Legislation

WASHINGTON, D.C.—''We are pleased that Senator Spencer Abraham has introduced legislation that will have a significant impact on small business and the legal system,'' said David Gorin, Chairman of the Small Business Legislative Council (SBLC). Mr. Gorin's remarks refer to the Small Business Liability Reform Act of 1999, which Senator Abraham and Senator Joseph Lieberman have introduced today. The legislation proposes a $250,000 limit on punitive damages for small business as well as provide protection from product-related injuries for non-manufacturing product sellers.

Gorin continued, ''For far too long, small businesses have been the losers in 'litigation lottery.' As our civil justice system has moved farther and farther away from common sense, small businessses have had to absorb an increasing hidden cost of doing business. That hidden cost is the result of making decisions and undertaking actions, not on the basis of what makes good business sense, but rather on the basis of 'will I be sued?' ''

Gorin concluded, ''The Small Business Legislative Council strongly supports Senator Abraham's legislation. SBLC believes the Small Business Liability Reform Act will restore common sense to the civil justice system and allow small businesses to make decisions on the basis of what's best for the economy, not the trial lawyers.''

The SBLC is a permanent, independent coalition of nearly eighty trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views.

Members of the Small Business Legislative Council

ACIL.
Air Conditioning Contractors of America.
Alliance for Affordable Health Care.
Alliance for American Innovation.
Alliance of Independent Store Owners and Professionals.
American Animal Hospital Association.
American Association of Equine Practitioners.
American Bus Association.
American Consulting Engineers Council.
American Machine Tool Distributors Association.
American Nursery and Landscape Association.
American Road & Transportation Builders Association.
American Society of Interior Designers.
American Society of Travel Agents, Inc.
American Subcontractors Association.
American Textile Machinery Association.
American Trucking Associations, Inc.
Architectural Precast Association.
Associated Equipment Distributors.
Associated Landscape Contractors of America.
Association of Small Business Development Centers.
Association of Sales and Marketing Companies.
Automotive Recyclers Association.
Automotive Service Association.
Bowling Proprietors Association of America.
Building Service Contractors Association International.
Business Advertising Council.
CBA.
Council of Fleet Specialists.
Council of Growing Companies.
Direct Selling Association.
Electronics Representatives Association.
Florists' Transworld Delivery Association.
Health Industry Representatives Association.
Helicopter Association International.
Independent Bankers Association of America.
Independent Medical Distributors Association.
International Association of Refrigerated Warehouses.
International Formalwear Association.
International Franchise Association.
Machinery Dealers National Association.
Mail Advertising Service Association.
Manufacturers Agents for the Food Service Industry.
Manufacturers Agents National Association.
Manufacturers Representatives of America, Inc.
National Association for the Self-Employed.
National Association of Home Builders.
National Association of Plumbing-Heating-Cooling Contractors.
National Association of Realtors.
National Association of RV Parks and Campgrounds.
National Association of Small Business Investment Companies.
National Association of Surety Bond Producers.
National Association of the Remodeling Industry.
National Chimney Sweep Guild.
National Community Pharmacists Association.
National Electrical Contractors Association.
National Electrical Manufacturers Representatives Association.
National Funeral Directors Association, Inc.
National Lumber & Building Material Dealers Association.
National Moving and Storage Association.
National Ornamental & Miscellaneous Metals Association.
National Paperbox Association.
National Shoe Retailers Association.
National Society of Public Accountants.
National Tooling and Machining Association.
National Tour Association.
National Wood Flooring Association.
Opticians Association of America.
Organization for the Promotion and Advancement of Small Telephone Companies.
Petroleum Marketers Association of America.
Power Transmission Representatives Association.
Printing Industries of America, Inc.
Professional Lawn Care Association of America.
Promotional Products Association International.
The Retailer's Bakery Association.
Small Business Council of America, Inc.
Small Business Exporters Association.
SMC Business Councils.
Small Business Technology Coalition.
Society of American Florists.
Turfgrass Producers International.
Tire Association of North America.
United Motorcoach Association.

NSBU Enthusiastically Supports Small Business Liability Bill

Small Business Association of Michigan also lends their support

WASHINGTON, DC—National Small Business United (NSBU), the nation's oldest bipartisan small business advocacy organization, is pleased to announce their support for the Small Business Liability Reform Act of 1999. The Small Business Association of Michigan (SBAM), one of NSBU's affiliate groups, has also announced their support for the legislation which will provide protections to small business from frivolous and excessive litigation as well as limiting the product liability of non-manufacturer product sellers.

Senators Spencer Abraham (R-Mich.) and Joseph Lieberman (D-Conn.), both of whom sit on the Senate Committee on Small Business, will introduce this measure which provides critical and necessary restrictions upon litigation, while not prohibiting legitimate litigation.

''In today's litigious environment, small businesses are often used as a scapegoat. Everyday, small businesses are forced to shut down and close because of these frivolous, and often times, unnecessary lawsuits,'' said Tom Farrell, NSBU Chair and owner of Farrell Consulting, Inc. in Pittsburgh, PA. ''The Small Business Liability Reform Act will finally place some common sense limitations on these unfounded lawsuits.''

NSBU joins SBAM in applauding Senators Abraham and Lieberman for their pragmatic leadership on such an important issue for the small business community.

NRF Supports Bill To Protect Small Businesses From Unnecessary Litigation

WASHINGTON, DC—The National Retail Federation voiced its support for the Small

Business Liability Reform Act of 1999. The bill, which is sponsored by Senators Spencer Abraham (R-MI) and Joseph Lieberman (D-CT), would help protect small businesses from frivolous litigation and exorbitant legal fees. Of particular interest to the retail industry are the bill's provisions to exclude small businesses from joint liability stemming from products they sell.

''Retailers often find themselves party to product liability lawsuits where no direct liability exists,'' said NRF Vice President and General Counsel, Mallory Duncan. ''This bill would shift the responsibility for defective products to where it rightly belongs—the manufacturer.''

The Small Business Liability Reform Act of 1999 would apply to businesses with 25 or fewer employees. According to Department of Commerce figures, more than 80 percent of the nation's retailers employ fewer than 25 individuals.

A recent Gallup survey suggests that some business owners' fear of litigation may impact critical operational decisions. The resulting ''chilling effect'' on the growth potential of small businesses underscores the need for reform, according to NRF.

''This bill would provide long-overdue and much needed relief to millions of entrepreneurs whose businesses could succeed or fail as the result of a single lawsuit,'' Duncan said. ''Most small business owners lack the resources to both defend themselves against legal action and remain solvent. This bill would give them some piece of mind and the confidence to manage their business without undue fear of financial ruin.''

The National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalogue, Internet and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 20 million people—about 1 in 5 American workers—and registered 1998 sales of $2.7 trillion. NRF's international members operate stores in more than 50 nations. In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 international associations representing retailers abroad.

NATIONAL RESTAURANT ASSOCIATION BACKS ABRAHAM/LIEBERMAN EFFORT TO CRACK DOWN ON FRIVOLOUS LAWSUITS

SAYS SMALL RESTAURANTS NEED PROTECTION FROM COSTLY, EXCESSIVE LITIGATION

WASHINGTON, DC—Saying that just one costly lawsuit is enough to put a restaurant out of business, the National Restaurant Association today strongly endorsed a bill sponsored by Sens. Spence Abraham (R-MI) and Joseph Lieberman (D-CT) to protect small businesses from litigation abuse.

''The tendency for people today to sue for outlandish reasons is out of control,'' said Association Senior Vice President of Government and Corporate Affairs Elaine Z. Graham. ''In recent years, many restaurants unfortunately have become targets for frivolous lawsuits. The reality is that it only takes one such lawsuit to drive a restaurant out of business. As a result, restaurants pay for high-priced liability insurance in an effort to arm themselves against the prospects of being sued.

''Our legal system needs to be reformed. We strongly support the Abraham/Lieberman bill and believe it will go a long way toward protecting smaller restaurants and curbing litigation abuse,'' she added.

The bill, the Small Business Lawsuit Abuse Protection Act, limits the amount of punitive damages that may be awarded against a business with 25 or fewer employees. Currently, many small businesses settle out of court and pay hefty awards—even if the claim is unfounded—because they are fearful of being hit with unlimited punitive damages. By putting a cap on punitive damages, the Abraham/Lieberman bill helps eliminate needless lawsuits and makes it easier for small businesses to get fair settlements, avoiding excessive legal fees.

The Association is urging members of Congress to support the Abraham/Lieberman bill.

NACS SUPPORTS SMALL BUSINESS LAWSUIT PROTECTION ACT

ALEXANDRIA, Virginia—The National Association of Convenience Stores (NACS) is pleased to endorse legislation authored by Senators Spencer Abraham (R–MI) and Joe Lieberman (D–CT) that would limit small businesses' exposure to damages and liability in civil cases.

The ''Small Business Liability Reform Act of 1999'' is broken into two sections: ''Small Business Lawsuit Abuse Protection'' and ''Product Seller Fair Treatment.'' The Small Business Lawsuit Abuse Protection section would limit small business exposure to punitive damages and joint liability for non-economic damages, in any civil action (with some exceptions). The damages would be limited to a maximum of $250,000. Under the bill, small businesses are defined as having under 25 employees. The Product Seller Fair Treatment section would hold non-manufacturing product sellers (local wholesaler-distributors and neighborhood retailers) liable for product-related injuries only when the seller is directly responsible for the harm.

''More than 70 percent of the over 77,000 stores operated by NACS members are either one-store operations or part of a chain of 10 or fewer stores. These small business owners provide an essential service to their communities, contribute significantly to local economies and employ hundreds of thousands of people,'' said Lyle Beckwith, Director, Government Relations at NACS. ''Because this bill protects those small business people from rising liability insurance costs and frivolous lawsuits, NACS will work proactively for its passage, and encourage other senators to follow the leadership of Senators Abraham and Lieberman.''

ACEC SUPPORTS ''SMALL BUSINESS LIABILITY REFORM ACT''

WASHINGTON, D.C.—The American Consulting Engineers Council (ACEC) strongly supports the ''Small Business Liability Reform Act of 1999'' which was introduced today by Senators Spencer Abraham (R–MI) and Joseph Lieberman (D–CT). The legislation, which builds on proposals that have earned strong bipartisan support in recent Congresses, will improve out nation's civil justice system through a package of carefully-targeted reforms—reforms that will deter unwarranted, frivolous, and needlessly wasteful litigation against employers, and particularly small businesses.

The threat of litigation and frivolous lawsuits continues to be a primary concern for consulting engineering firms according to ACEC's recent Professional Liability Survey report. Fully 75% of survey respondents indicated that the threat of litigation stifled the use of innovative techniques or technologies while working on projects. Over one-third of all claims filed against ACEC member firms resulted in no payment of any kind to the plaintiff, a fact which indicates that ''frivolous'' litigation remains a problem for the industry.

The Small Business Liability Reform Act would limit the exposure of small businesses to punitive damages and joint liability for non-economic damages in any civil action, with the exception of lawsuits involving certain types of egregious conduct. If passed, the bill would limit punitive damages to the lesser of two times the amount awarded to the claimant for economic and noneconomic losses, or $250,000.

Howard M. Messner, ACEC's Executive Vice President, applauded the Senators' decision to sponsor this legislation, saying ''ACEC has long supported the types of reforms incorporated in this legislation. Our member firms have learned from direct experience that meritless lawsuits can cripple a professional's practice, especially when that professional is a small businessperson. For this reason, we will certainly support legislative initiatives designed to provide some much-needed relief from baseless lawsuits.''

IMRA HAILS BILL LIMITING RETAILERS' EXPOSURE TO PRODUCT LIABILITY SUITS

ABRAHAM-LIEBERMAN BILL WOULD GUARD INNOCENT DISTRIBUTORS

ARLINGTON, VA—The International Mass Retail Association (IMRA) applauds today's introduction of the bipartisan ''Small Business Liability Reform Act of 1999'' by Senators Spencer Abraham (R–MI) and Joseph Lieberman (D–CT). The bill would shield from product liability lawsuits retailers and other distributors if they did not take part in the product's design and manufacture. It would generally hold retailers and other distributors responsible only for their own negligence, not for the actions of manufacturers.

''All too often, mass retailers are unfairly dragged into product liability lawsuits when they have had no part in designing or producing the item in question,'' said IMRA President Robert J. Verdisco. ''Simply selling a product should not automatically bring the retailer or distributor into product liability lawsuits.''

The Abraham-Lieberman bill would allow a product seller to be brought into Federal or state product liability lawsuits only if the plaintiff can show harm due to a retailer's or distributor's failure to exercise reasonable care with the product, failure to live up to its own express warranty, or deliberate wrongdoing. Retailers and distributors could also be brought in when the product maker cannot be brought into court or pay a judgment against it.

Verdisco called the Abraham-Lieberman measure ''long-needed, common-sense reform to our nation's product liability system.'' He noted that the same provisions have been part of broader product liability reform bills for many years without prompting major controversy.

''Product safety is an important concern for the nation's mass retailers,'' Verdisco noted, ''but groundless, costly product liability cases against retailers who have no involvement other than selling the product can jeopardize the wide selection and low prices that consumers have come to expect from mass retail stores.'' He added, ''The Abraham-Lieberman bill would provide innocent retailers and distributors with fair and reasonable safeguards, while still allowing consumers to pursue claims they believe are meritorious against those most responsible for the product.''

ABC APPLAUDS INTRODUCTION OF SMALL BUSINESS LIABILITY REFORM

WASHINGTON, D.C.—May 28, 1999—ABC applauded the introduction today of the Small Business Liability Reform Act of 1999 by Sens. Spencer Abraham (R-Mich.) and Joseph Lieberman (D-Conn.).

ABC President David Bush said, ''ABC has long been supportive of lawsuit reform as a

beneficial solution of the pressing problem of frivolous lawsuits which raise the cost of doing business and clog the nation's court systems.''

The legislation would limit punitive damages and joint liability for non-economic damages against small businesses in any civil lawsuit. Under current law, punitive damage verdicts are commonplace as a result of vague substantive standards and unrestrained plaintiff's lawyers. Awards in non-economic cases compensate plaintiffs for ''pain and suffering'' or ''emotional distress,'' and are not calculated on tangible economic loss. Multi-million dollar punitive damage awards are now routinely sought and frequently imposed in almost every type of civil case.

ABC has long been supportive of lawsuit reforms. The construction industry is particularly concerned about frivolous cases brought before the National Labor Relations Board as a result of ''salting'' abuses.

''ABC commends Sens. Abraham and Lieberman for introducing common-sense legislation that, if passed, will discourage costly and frivolous lawsuits against small business owners.''

Mr. MCCONNELL. Mr. President, I rise today to join my esteemed colleagues in the introduction of the Small Business Liability Reform Act of 1999.

Over the last 30 years, the American civil justice system has become inefficient, unpredictable and costly. Consequently, I have spent a great deal of my time in the United States Senate working to reform the legal system. I was particularly pleased to help lead in the efforts to pass the Volunteer Protection Act, which offers much-needed litigation protection for our country's battalion of volunteers. America's litigation crisis, however, goes well beyond our volunteers.

Lawsuits and the mere threat of lawsuits impede invention and innovation, and the competitive position our nation has enjoyed in the world marketplace. The litigation craze has several perverse effects. For example, it discourages the production of more and better products, while encouraging the production of more and more attorneys. In the 1950s, there was one lawyer for every 695 Americans. Today, in contrast, there is one lawyer for every 290 people. In fact, we have more lawyers per capita than any other western democracy.

Mr. President, don't get me wrong—there is nothing inherently wrong with being a lawyer. I am proud to be a graduate of the University of Kentucky College of Law. My point, however, is simple: government and society should promote a world where its more desirable to create goods and services than it is to create lawsuits.

The chilling effects of our country's litigation epidemic are felt throughout our national economy—especially by our small businesses. We must act to remove the litigation harness that constrains our nation's small businesses.

Small businesses are vital to our nation's economy. My state provides a perfect example of the importance of small business. In Kentucky, more than 85% of our businesses are small businesses.

The Small Business Lawsuit Abuse Protection Act is a narrowly-crafted bill which seeks to restore some rationality, certainty and civility to the legal system.

First, Title I of this bill would offer limited relief to businesses or organizations that have fewer than 25 full-time employees. Title I seeks to provide some reasonable limits on punitive damages, which typically serve as a windfall to plaintiffs. It also provides that a business's responsibility for non-economic losses would be in proportion to the business's responsibility for causing the harm.

The other Title in the bill includes liability reforms for innocent product sellers—which are very often small businesses. These businesses are often dragged into product liability cases even though they did not produce, design or manufacture the product, and are not in any way to blame for the harm that the product is alleged to have caused. Title II would help protect product sellers from being subjected to frivolous lawsuits when they are not responsible for the alleged harm.

Now, let me explain what this bill does not do. It does not close the courthouse door to plaintiffs who sue small businesses. For example, this bill does not limit a plaintiff's ability to sue a small business for an act of negligence, or any other act, for that manner. It also does not prevent a plaintiff from recovering from product sellers when those sellers are responsible for harm.

Mr. President, this is a sensible, narrowly-tailored piece of legislation that is greatly needed to free up the enterprising spirit of our small businesses. I look forward to the Senate's consideration of this important legislation.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. DASCHLE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 10, a bill to provide health protection and needed assistance for older Americans, including access to health insurance for 55 to 65 year olds, assistance for individuals with long-term care needs, and social services for older Americans.

S. 13

At the request of Mr. ROBB, his name was added as a cosponsor of S. 13, a bill to amend the Internal Revenue Code of 1986 to provide additional tax incentives for education.

S. 42

At the request of Mr. HELMS, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 42, a bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services.

S. 51

At the request of Mr. BIDEN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 51, a bill to reauthorize the Federal programs to prevent violence against women, and for other purposes.

S. 97

At the request of Mr. MCCAIN, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 97, a bill to require the installation and use by schools and libraries of a technology for filtering or blocking material on the Internet on computers with Internet access to be eligible to receive or retain universal service assistance.

S. 216

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 216, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the use of foreign tax credits under the alternative minimum tax.

S. 288

At the request of Mr. ROBB, his name was added as a cosponsor of S. 288, a bill to amend the Internal Revenue Code of 1986 to exclude from income certain amounts received under the National Health Service Corps Scholarship Program and F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

S. 317

At the request of Mr. DORGAN, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 317, a bill to amend the Internal Revenue Code of 1986 to provide an exclusion for gain from the sale of farmland which is similar to the exclusion from gain on the sale of a principal residence.

S. 331

At the request of Mr. JEFFORDS, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 343

At the request of Mr. BOND, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 343, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for 100 percent of the health insurance costs of self-employed individuals.

S. 344

At the request of Mr. BOND, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 344, a bill to amend the Internal Revenue Code of 1986 to provide a safe harbor for determining that certain individuals are not employees.

S. 429

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 429, a bill to designate the legal public holiday of ''Washington's Birthday'' as ''Presidents' Day'' in